

SHELF

HEALTH AND SAFETY INFORMATION PACKET

ON

CARCINOGENS



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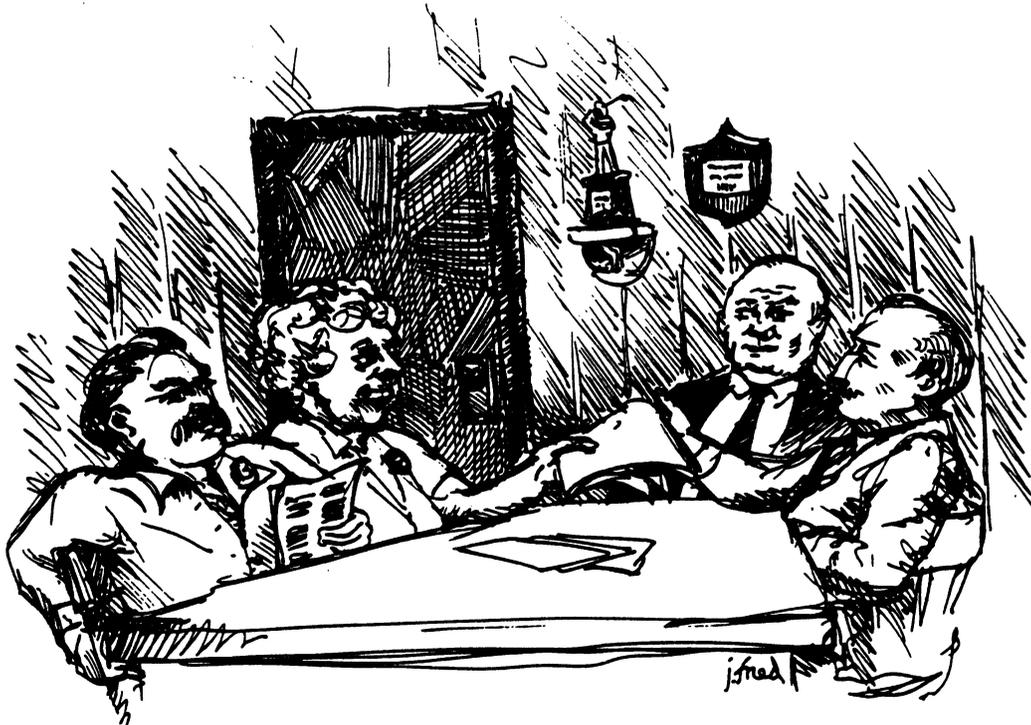
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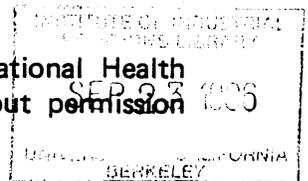
UNIV
SHELF

HEALTH & SAFETY
TRAINING PACKET
FOR

JOINT LABOR-MANAGEMENT HEALTH AND SAFETY COMMITTEES.



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INTRODUCTION

The health and safety committee is a well-known approach to decreasing accidents and illness in the workplace. Over the years, these committees have taken a variety of forms including independent union committees, unilateral management committees or joint labor-management committees. They have traditionally been established by management initiative or through contract negotiations. It is only recently that we have begun to see the government play a substantial role in promoting committees, especially the joint labor-management committee.

The new government emphasis on joint committees is based on the "voluntary compliance" model, designed to decrease the role of OSHA in enforcing regulations and increase cooperative labor-management efforts to control workplace hazards. This shift raises important questions about joint committees, such as: How effective are committees in actually providing workplace protection? What minimal standards should be set to ensure that committees function effectively? How can an equal voice for labor be ensured on a joint committee?

Standards to address these concerns are essentially nonexistent, as yet, with the exception of two state laws (Oregon and Washington) which require joint labor-management committees. However, through federal OSHA and in most states, minimum requirements for committees will need to be established in the near future. Joint labor-management health and safety committees are destined to be an important issue of the '80s.

In order to provide assistance in analyzing the controversial issue of joint labor-management committees and especially their use in voluntary compliance, the following packet has been compiled. Materials are included in four subject areas:

- Federal OSHA initiatives
- California initiatives
- Experiences with joint committees in other states
- Guidelines for the establishment of effective committees

These materials represent a variety of views and are designed to offer an understanding of the range of experiences and issues related to joint labor-management health and safety committees.

Section I – FEDERAL OSHA AND JOINT COMMITTEES

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Section I – FEDERAL OSHA AND JOINT COMMITTEES

In July of 1982, Federal OSHA introduced a new approach to compliance which they named Voluntary Protection Programs. These programs heralded the beginning of a new direction by the federal agency involving greater industry participation. The following enclosures describe the three programs implemented by OSHA, with various comments as to their feasibility, examples of firms approved for participation, and future plans for expanded programs.

New Compliance Programs

OSHA Announces "Voluntary Protection"

by Chris Eitel

On July 4, 1982, federal OSHA announced the implementation of three new Voluntary Protection Programs. These programs, called "PRAISE," "STAR," and "TRY," are designed to promote cooperative labor-management health and safety efforts in the workplace.

According to OSHA head Thorne Auchter, they have two objectives. For employers, he said, the voluntary programs "will provide an opportunity to abate hazards more quickly and without undue government interference." For employees, he said, the programs will produce "continuous monitoring of workplaces and quicker correction of hazardous worksites."

In contrast to Auchter's enthusiasm, some labor organizations have expressed suspicion and concern. AFL-CIO Safety and Health Director George H. R. Taylor, commenting on the OSHA announcement, said the agency "has seriously jeopardized the rights of workers by eliminating general scheduled inspections. Employee complaints may also be reduced as a result of the program." The United Steelworkers of America Safety and Health Department is also worried that "corporate good faith is a key element if programs are to work, and labor and the USWA are dubious that it will be usually forthcoming."

The first industry participation in the federal programs was announced on July 9, 1982. Ortho Diagnostic Systems, Inc., a Raritan, New Jersey medical equipment manufacturer and subsidiary of Johnson and Johnson, was approved for participation in the PRAISE program. In the Labor Department release, there was no mention of union participation or approval. Currently, there are ten participating workplaces representing a total of six employers: 1 in STAR, 5 in TRY, and 4 in PRAISE.

WHAT DO THE PROGRAMS DO?

These voluntary compliance programs are to be administered through joint labor-management health and safety committees or through a management initiated structure that "the relevant union does not object to." Non-unionized workplaces will also be offered the option of participating in one of these programs. In exchange for establishing these cooperative programs, worksites will be exempt from general scheduled inspections. However, Auchter has stated that these programs are not meant to replace OSHA enforcement and that participating firms must still comply with all OSHA safety and health regulations. The agency also remains responsible for investigating worker complaints. However, if there is a voluntary program at their workplace, workers will be queried about whether or not they have used their internal systems to resolve the problem prior to calling OSHA.

Features of the three programs are described below:

STAR - This is the most comprehensive program, covering both health and safety (except in construction, where only safety will be included.) It is aimed at firms who are leaders in injury, illness, and accident prevention, and it will highlight high-hazard industries. The standards for participation in the program are high, and there must be a history of an effective

program already in place. A participant must have a three-year average for both injury incidence and lost workday case rates which is at or below the national average for their industry (measured according to Log 200 data.) Programs relying on labor-management or management initiatives which include supervisory accountability and employee participation will be eligible for STAR. It is expected that, because of the high standards for participation, many more industries will apply than will be eligible. STAR participants will only be evaluated every three years.

TRY - For those companies that do not qualify for STAR, the TRY program is intended to "determine the effectiveness of alternative safety and health systems and to provide an opportunity for participation by employers who want to cooperate closely with OSHA to improve their health and safety performance." Applicants' Log 200 data should have an injury incidence rate or lost workday case rate for the most recent three years which is at or below the national average for their specific industry, or show a downward trend, or indicate methods to be used for achieving the goals. Programs will be evaluated annually and if results warrant, they will be shifted to the STAR program. Health and/or safety may be covered in TRY programs; high-hazard industries may be included; and programs may be based on labor-management or management initiatives which include "some form of employee participation." There is no clear indication of the need for a pre-existing health or safety program.

PRAISE - This program is directed toward employers in low-hazard industries who have (1) a lost workday case rate at or below the national average for the private sector (currently 3.9 per 100 workers), and (2) both a lost workday case rate and an injury incidence rate at or below that of their specific industry over the most recent five years. This program will cover safety only. There is no formal evaluation of PRAISE participants. Injury incidence and lost workday case rates, however, will be reviewed annually.

WHAT ARE LABOR'S OBJECTIONS?

The 1970 OSH Act provided workers with the right to complain and achieve action. Labor's major objection to these new programs is that the new reliance on joint labor-management voluntary compliance implies a lessening of emphasis on enforcement activity. Even though Thorne Auchter claims this shift is not a lessening of enforcement, but a chance to concentrate on the really hazardous worksites, the fact remains that participation in these programs removes general scheduled inspections and surprise visits as a power that OSHA maintains. The fact that workers who do complain to OSHA will be questioned about whether they went through their voluntary compliance committee first, could easily be taken as a form of intimidation used against workers for exercising their rights. Also, joint committees, unlike OSHA, are not required to protect anonymity.

There is also fear that these committees or the union could be held liable for worker injury or illness because of their health and safety responsibilities. However, specific union protection can be provided through indemnification clauses in the contract and through "good faith efforts" in exercising



explicit and implied powers regarding health and safety. (An indemnification clause frees the union of liability, and demonstrating a "good faith effort" is a defense that can be used if the union is sued.)

It must be remembered that OSHA cannot legally turn over its regulatory functions to a non-regulatory body. Thus, even if a voluntary compliance health and safety committee is used to solve health and safety problems at the workplace level, complaint rights to OSHA must still be upheld and utilized as needed.

Another concern with the voluntary compliance program is its reliance on Log 200 data to determine initial and ongoing participation. There might be a temptation for companies to under-report accidents and illnesses even more than is already done, thus presenting a false picture of a firm's ability to monitor its own health and safety and participate in one of the programs.

The establishment of these programs in non-unionized workplaces raises an additional set of issues. It is thought by some individuals that these programs will take away the main protection unorganized workplaces have—surprise and general scheduled visits by OSHA—and give, in trade, a program which may have only the appearance of monitoring health and safety. And, of course, OSHA's inclusion of non-union shops has caused labor to question the agency's fundamental sincerity in obtaining full worker participation in its voluntary compliance programs. The issue is raised: how can a non-union workforce select representatives and participate freely on a committee without fear of discrimination?

EXAMINING THE CRITERIA

Despite the reservations expressed by labor, many unions will be considering the possibility of entering into OSHA Voluntary Protection agreements. Each union must decide for itself whether to reject the concept for its shortcomings or to take part in shaping this "trend of the future." Based on years of union experience, there are basic criteria which have been found to be essential in order for joint labor-management health and safety committees to function effectively. Unfortunately, none of these criteria have been incorporated into the OSHA program. Thus, it is up to individual unions to ensure that these criteria are included in any agreement that is reached.

In general, a union should seek to ensure that the joint committee has the authority and power to perform its stated purpose—to protect the health and safety of workers. Fundamental rights of the committee ideally should include the right

to know (about hazards on the job), the right to participate equally (in meetings, walkaround inspections, etc.), and the right to refuse (to do work which the committee has found to be excessively dangerous). The following checklist includes some questions to help a union in evaluating the potential effectiveness of a joint labor-management health and safety committee:

1. Are the basic rights of the committee clearly stated and incorporated into the collective bargaining agreement? Any rights guaranteed under the law or agreed to in the voluntary compliance agreement should be reinforced in the union contract. Make sure union liability protection is included.
2. Are there at least as many representatives on the committee from labor as there are from management? Are the labor representatives chosen by the workers?
3. Do management representatives have real power or influence in the company? Don't settle for token management involvement!
4. Is there an agreement for maintenance of a separate union health and safety committee? Even though OSHA won't recognize a union-only committee as appropriate for the voluntary compliance program, that committee can provide important preparation and backup protection for union members of the joint committee.
5. Is there an agreement for handling disputes so that stalemates can be avoided?
6. Is there a clearly established mechanism for referring worker complaints to OSHA if the internal compliance program doesn't work?
7. Is there enough training and education provided the committee members so they can adequately perform their function? Is there access to Industrial Hygiene and other technical advisors as needed?
8. Is payment for committee time guaranteed to the workers?
9. Is participation in the federal program the best option available for your particular workplace? There are various state plans which may be better. Check and see if your state has a plan.

Unions

TEAMSTERS EXPRESS CONCERN OVER VOLUNTARY COMPLIANCE PLANS

The International Brotherhood of Teamsters, in a letter to Vice President George Bush, registered its "deep concern" over the Occupational Safety and Health Administration's recently proposed voluntary compliance programs for improving workplace safety and health.

Teamsters' General President Roy Williams told Bush in a Jan. 29 letter that his union "has long been an advocate of labor-management cooperation" and that voluntary compliance represents a key to reducing worker injury and death figures. However, these programs, in their present form, "are not the way to achieve that goal," Williams declared.

Last month, OSHA asked for public comments on several initiatives proposed to augment the agency's "limited inspection force," including employee participation programs, management initiative programs, and private sector support for small businesses (Current Report, Jan. 21, p. 643).

According to Williams, these proposals are of concern to his union because they "fundamentally alter the relationship between workers and the federal agency created to insure worksite safety and health" by allowing private companies to assume many of the duties and responsibilities assigned to OSHA by Congress.

Specific Objections

Noting OSHA's labor-management committee initiatives embodied in the proposals for Projects STAR, Build, and Try, Williams asserted that they "raise serious questions concerning the tort liability of unions or individual workers involved with such joint committees" since these groups "do not enjoy the bar to suit possessed by management by virtue of state workers' compensation statutes."

Recently, the general counsel of the AFL-CIO Industrial Union Department outlined some guidelines for unions to follow to protect themselves from such liability lawsuits (Current Report, Feb. 4, p. 709).

Also, according to the Teamsters' official, these programs "seriously frustrate and erode the worker complaint procedure" as spelled out in the Occupational Safety and Health Act, and "cloud the role OSHA is to play in ensuring workplace safety."

The management initiative programs, PRIME and PRAISE, share in these same defects, Williams said. Also, because these efforts would not require worker involvement, they would "leave employees virtually dependent upon the good graces of management for safety and health protection."

Williams said his union will be filing detailed comments in response to OSHA's notice, but in the meantime he said it was necessary to alert the Vice President to the problems these programs would present to Teamster members and to other workers.

Complexities Said Overwhelming

Since safety and health programs are management responsibilities, those "requiring passive employee participation will in the long run be the most effective," Organization Resources Counselors, Inc., stated in its docket comments.

However, programs such as the proposed PRIME effort go into "excessive detail in areas that are unnecessary." ORC recommended that OSHA remove those provisions that constitute an intrusion into the management of a company's safety and health program, such as those requiring a resource liaison for each project. ORC also recommended replacement of the auditing requirement with self-certification systems.

Further, ORC suggested that there should be "no routine evaluation of individual firms after they have completed their probationary period" and that there should be a "lengthy nonreview period for establishments that more than meet the minimal qualifications."

The National Association of Manufacturers urged OSHA to expand the opportunity for participation by including certain "entry level" incentives, with progression to succeeding levels with more rigorous program criteria and requirements linked to the employer's lost workday incidence rates.

Improving workplace safety and health through voluntary programs "depends on flexibility and an appreciation of the realities of the operations of individual employers," according to the National Safety Council. NSC urged the agency to seek out proposals which "instead of being restricted to pre-structured forms would tailor their comprehensive programs to the individual operations involved." A selected number of proposals with different approaches should then run for a trial period, after which the agency should take further steps "if any are warranted and desirable," the council explained.

Disincentives vs. Incentives

For companies with effective programs, the proposals offer few incentives, according to the American Paper Institute, Inc. Besides the administrative restrictions and requirements that discourage participation, the institute declared that the "ostensible reward" for participation, "probable exemption from general schedule inspections, is really a hollow benefit for many firms, in that those with lost workday case rates below the national average for manufacturers are virtually exempt from inspections under OSHA's targeting policy anyway."

The Washington Legal Foundation also maintained that the disincentives for employers "far outweigh any potential benefits." In addition to offering no guaranteed exemption from OSHA inspection, the proposals would impose costly additional recordkeeping and paperwork requirements, the foundation contended.

In order to decrease rather than increase the regulatory burden, the foundation suggested that a program be established allowing an employer with a proven safety record to qualify for voluntary self-regulation and exemption from routine inspections.

The Synthetic Organic Chemical Manufacturers Association, Inc., urged OSHA to provide positive incentives to employers. In particular, the association suggested that qualifying employers be allowed to write their own variances from OSHA standards and regulations, subject to agency review.

Under revised variance regulations suggested by SOCMA, participating employers would file a proposed variance and supporting documents with the OSHA area office. The variance would become effective within a specified time, such as 30 days, unless OSHA or the affected employees objected, in which case the agency's office would conduct an "expedited hearing" on the variance application.

Enforcement

VOLUNTARY COMPLIANCE PROPOSALS NEED CHANGES, BUSINESS, LABOR STATE

The Occupational Safety and Health Administration's proposed voluntary compliance programs "are not programs to supplement enforcement, but to diminish enforcement," according to the United Auto Workers.

The proposals now being circulated "will diminish workers' rights, reduce pressure on employers to reduce workplace hazards, and undermine existing joint labor-management programs and company-initiated voluntary compliance efforts," the union stated in comments to the agency.

In January, OSHA asked for public comments on several suggested voluntary compliance programs designed to improve workplace safety and health and to permit the agency to concentrate its enforcement resources on the most hazardous establishments. Employee participation programs, management initiative programs, and private sector support for small business are the three general categories for the suggested programs (Current Report, Jan. 21, p. 643).

Under the Occupational Safety and Health Act, any formal complaint, even one from a workplace covered by voluntary programs, must be treated as any other formal complaint, with the agency scheduling an unannounced inspection in accordance with applicable procedures. "The law has no place for agreement to treat valid formal complaints from one class of workplace differently than any other," the union said.

"If such agreements are made by OSHA, then the worker in a location covered by a voluntary program would have different, and fewer rights, than one in a non-covered plant," according to the UAW.

On this same point, the Food and Beverage Trades Department, AFL-CIO, contended that under the current situation where there is a functioning joint committee, the need for calling OSHA diminishes in direct proportion to the committee's effectiveness. "To discourage the filing of this complaint, or send it to the employer in place of an inspection as the proposal intends, will only make a mockery of OSHA's power of enforcement. It is also illegal — in that it gives advance notice of an OSHA inspection" the department declared.

Union Liability

Serious concern over the liability issue was expressed by most unions filing comments with OSHA. While employers generally are not subject to tort actions, unions do not enjoy the same immunity, according to the International Longshoremen's and Warehousemen's Union. The ILWU said it would not participate in any program in which unions were not "explicitly provided" with immunity from third party suits.

However, the union questioned OSHA's legal authority to grant such immunity, adding that "such a matter appears appropriate for congressional or state legislative action, not OSHA rulemaking."

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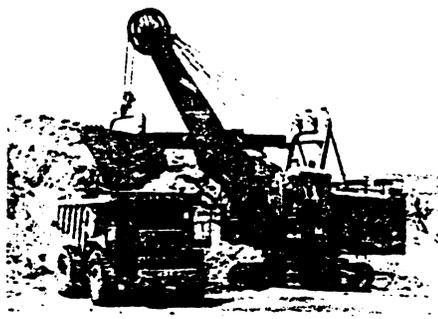
OSHA Tries Reagan Approach: Voluntaryism

MSHA Victory Won, But Threat Remains

After a long and tough legislative fight, MSHA's enforcement authority for surface stone, sand and gravel, clay and colloidal phosphate mines was restored with the July 16 signing by President Reagan of an Urgent Supplemental Appropriations bill. However, because surface mine operators and their congressional allies already have begun an effort to reverse that action next year, USWA Safety and Health Committees should immediately write to their Senators and Representative urging them to resist any such attempt to reinstate the MSHA exclusion from surface mines.

The zip code in Washington, D.C. for the U.S. House of Representatives and the House Office Buildings is 20515; for the Senate and the Senate Office Buildings, it is 20510.

The surface mines involved employ some 123,000 workers. When Congress



last year suspended MSHA's authority to inspect those mines, almost all went uninspected by any government agency, and the rate of fatal accidents at such properties quickly increased. Between January, when the exclusion took effect, and April of this year,

(Continued on Page 11)

The Occupational Safety and Health Administration recently announced the establishment of three voluntary safety and health compliance programs, called "Star," "Praise," and "Try," under which participating companies would be exempted from general schedule compliance inspections by OSHA—the random surprise inspections to which many companies have vehemently objected, but which the labor movement has viewed as a vital prod to employers in the safety and health area. If your local union is approached by management or OSHA about putting one of these programs into effect at your plant, your staff representative should be immediately notified, who, in turn, should contact the USWA Safety and Health Department.

The department can assist in making a determination as to whether participation by the local union in such a program might be in its interest. It could be, for example, in certain situations where the collective bargaining contract lacks effective safety and health language.

Beyond the exemption from general schedule OSHA inspections, however, the labor movement is concerned that the voluntary compliance programs will also inhibit workers from filing safety and health complaints and could make unions legally liable for occupational injury and disease, although it is the employer's duty to provide a safe and healthful workplace. Corporate good faith is a key element, too, if the programs are to work, and labor and the USWA are dubious that it will be usually forthcoming.

COMPANIES CAN APPLY to be involved in one of the three programs and thus escape "undue government interference" in abating workplace hazards, according to OSHA, if certain qualifications are met, including above average safety records in recent years. Theoretically at least, program partici-

pants still must comply with all OSHA safety and health regulations.

Acceptance into a program is to be based upon the existence of an effective safety and health program by a company, involving a joint labor/management committee or at least some worker participation and demonstrated by an injury and illness rate and lost workday rate below the national average for that particular industry over a three-year span.

The "Star" program is supposedly for companies already in the safety and health forefront, which have staff and equipment needed to conduct sampling and the like. The "Praise" program is for firms with good records in low-hazard industries. The "Try" pro-

Contact Your Staff Rep If Managers Push This Program.

gram is for the rest of American industry.

In entering one of these programs, a company signs a written agreement with OSHA of program guidelines and requirements. The agreement can be nullified at any time upon 60 days notice to the other party. "Because voluntary programs can only succeed in a nonadversarial atmosphere, unionized work sites must demonstrate that the relevant union has no objection to program participation," according to OSHA Director Thorne Auchter.

THE USWA SAFETY AND HEALTH Department is unaware of any USWA-represented plant which to date has become covered by any of the voluntary compliance programs, although OSHA has approached a few companies under USWA contract.

Although OSHA administratively initiated an inspection-targeting program

(Continued on Page 2)

Not Demanding Your OSHA Rights Is to Lose the Law's Protections

By Adolph Schwartz

Director, USWA S&H Department

Clearly, under the Reagan Administration, the Occupational Safety and Health Administration is attempting to beat a retreat from strict regulation of American industry. It is part of the process, as Ronald Reagan promised during the election campaign, of "getting the government off people's backs." The trouble is, of course, that as government gets off industry's back, industry is freed up to get on the backs of workers.

Tragically, it means industry is freer to endanger workers, as OSHA's administrative procedures are changed and its enforcement of standards is weakened. There has been a sharp decline in inspections and citations, which undoubtedly largely explains the drop-off of worker complaints. As former OSHA Director Eula Bingham, now vice president of the University of Cincinnati, recently told the AFL-CIO Industrial Union Department's annual legislative conference, workers have little reason for filing them if they have no hope of getting an inspection. A 208 per cent rise in the backlog of unanswered complaints, she said, is the reason that worker complaints have declined 40 per cent.

But because some employe rights are being undermined in this and other ways ought not to mean that workers should surrender them or the rest.

YET, MANY LOCAL UNIONS are not participating in OSHA inspections of their workplaces, in informal and settlement conferences concerning occupational safety and health, or in Review Commission proceedings on cases involving their own places of employment. They are, in effect, forfeiting rights for worker participation which were not simply given to us. These are rights for which workers and their unions had to fight long and hard.

There is no excuse for any members of USWA Safety and Health Committees not to know their rights. At all of our safety and health conferences, members of my staff discuss and an-

swer questions about all of our rights under both OSHA and collective bargaining agreements. In addition, printed material that fully describes these rights and how we can go about exercising them has been prepared and distributed. More importantly, there is no excuse for members of these committees not to use these rights.

Given the current political situation, OSHA will be only as effective as we can make it be. If we do not actively participate in all of its proceedings that we are entitled to, we are simply failing to provide our brothers and sisters with the protection and representation they deserve. Your union will fight to try to protect the worker rights that exist under OSHA. Those rights, however, must be used at the local union level.



SCHWARTZ

OSHA's Voluntary Programs

(Continued from Page 1)

last year, which, in effect, exempted a number of steel mills from general schedule inspections, the agency is promoting the new programs as making it possible for OSHA to concentrate inspections by its limited personnel at the most hazardous worksites.

The USWA's policy has always been to work first with management in the attempt to get safety and health problems corrected. Yet, even though OSHA is supposed to still be responsible for investigating worker complaints and fatal or serious accidents under the new voluntary compliance programs, the union is deeply concerned that the key right of workers to request an inspection might well be undermined under them. OSHA has stated that it will question the complainant as to whether the internal company complaint procedure has been used, and many workers may be intimidated by such questioning from pursuing their complaints.

Additionally, because company participation in these programs is dependent on below-average injury and illness rates, some companies might be tempted to under-record accidents on their OSHA 200 log. (The union's Safety and Health Department has published a booklet, copies of which are available, that fully describes what is recordable on that log and explains methods for local unions to use to determine whether or not the form is accurately completed. It is recom-



mended that local unions check this 200 log at their workplace at least once a month.)

OSHA IS SUPPOSED to evaluate yearly each "Try" program and each program under "Star" every three years. Participants in "Praise" will have no formal evaluation by OSHA.

Again, before initially consenting to any of these programs at USWA-represented workplaces, the local union is urged to consult, through its staff representative, the union's Safety and Health Department.

Safety & Health

UPDATE

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1910.213(h)(1) for failure to ensure that radial saws were equipped with safety hoods completely enclosing the upper portions of each blade.

The company also is contesting a nonserious citation for 1910.25(d)(1)(x) for failure to withdraw defective ladders from service, 1910.212(a)(5) for failure to ensure that fan blade guard openings did not exceed one-half inch, 1910.215(a)(4) for failure to ensure that grinding machinery work rests were adjusted to within one-eighth inch, of the wheel and 1910.215(b)(9) for failure to ensure that abrasive wheel guards were constructed so that peripheral projecting members could be adjusted to the constantly decreasing diameter of the wheel (No. 82-0652).

T.C. McCaffrey Construction, Inc., Wauwatosa, Wis., is contesting a willful citation and a \$6,000 penalty for 1926.652(a) for failure to slope or shore the sides of a trench.

The company also is contesting a serious citation and a \$180 penalty for 1910.184(i)(9)(iii) for failure to remove from service a damaged synthetic web sling (No. 82-0661).

Melbourne Brothers Construction Company, North Canton, Ohio, is contesting a serious citation and a \$1,280 penalty for 1926.106(a) for failure to provide employees working over water with approved life vests and 1926.500(d)(1) for failure to install standard railings on an elevated pier (No. 82-0638).

Pirini Corporation, Framingham, Mass., is contesting a

repeated citation and a \$960 penalty for 1926.500(d)(1) for failure to adequately guard platform openings.

The company also is contesting a serious citation and a \$300 penalty for 1926.400(a) for failure to ensure that employees were not exposed to live parts of electrical equipment (No. 82-0656).

Reading & Bates Construction Company, Houston, Texas, is contesting a serious citation and a \$630 penalty for 1910.304(f)(4) for failure to provide a permanent and continuous ground path for a trailer (No. 82-0641).

Rockford Drop Forge Company, Rockford, Ill., is contesting a serious citation and an \$810 penalty for 1910.95(b)(1) for failure to reduce noise (No. 82-0663).

Dean D. Underwood, Safety Chairman, UAW Local 1027, Detroit, Mich., is contesting a \$240 penalty issued to Novenco, Inc., Springfield, Ohio, for failure to ensure that a ground prong was not removed from an electrical extension cord (No. 82-665E).

ABATEMENT PETITIONS

Consolidated Rail Corporation, Columbus, Ohio, is requesting a three-month extension of abatement to Aug. 31, 1982, to make required roof repairs (No. 82-0658).



Full Text

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION NOTICE OF IMPLEMENTATION OF VOLUNTARY COMPLIANCE PROGRAMS [47 FR 29025, July 2, 1982]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Voluntary Protection Programs To Supplement Enforcement and To Provide Safe and Healthful Working Conditions

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of implementation of revised voluntary protection programs.

SUMMARY: OSHA announces the implementation of three Voluntary Protection Programs. The programs, revised from the January 19, 1982, notice in the Federal Register (47 FR 2796), seek out and recognize exemplary safety and health programs as a means of expanding worker protection. Companies, general contractors, and small business organizations which meet specified programmatic safety and health criteria, which go beyond OSHA

standards in providing safe and healthful workplaces for their employees, and which want to do more than is required to help the agency accomplish the goals of the Act are the applicants OSHA seeks for these voluntary programs. In return, OSHA will remove participants from general schedule inspection lists and give priority attention to any which request a variance.

The programs are called "Star," "Try," and "Praise." "Star" is aimed at those workplaces having superior safety and health programs that go beyond OSHA standards in providing worker protection, through either employee participation or management initiative efforts. "Star" is designed to demonstrate that good safety and health programs can prevent injury and illness. "Try" is a broader and, in a sense, more flexible program. On one hand, "Try" is designed to evaluate alternative internal safety and/or health systems for the prevention of workplace injuries and

illnesses. On the other hand, "Try" allows participation by firms which have good safety records or are anxious to improve them. Finally, "Praise" is a recognition program for employers in low-hazard industries with good safety programs who have been successful in preventing injuries. The unifying purpose of all these programs is injury and illness prevention.

We have simplified the Voluntary Protection Programs. The six experimental programs originally announced in the earlier Federal Register notice have been reduced to three. "Star" now applies to any industries. In addition, while labor management committees were originally required for participation, the new Star Program will be available for either employee participation or management initiative projects. "Try" has also been expanded to allow management initiative projects. "Praise" remains a recognition program for companies which have good safety records.

Applicants now eligible for "Star" and "Try" include companies, general contractors, or groups of small businesses. Applicants which operate a single site, a multiple-employer single site, or multiple sites organized by one company, corporation, or organization may be eligible. While the group approach, allowing several small firms to participate as one applicant, is not feasible for "Praise," many small businesses may individually qualify for participation in the program.

Internal complaint mechanisms will be required for "Star" and "Try" programs to give participants an opportunity to resolve complaints without OSHA involvement. Agency and internal complaint records will be reviewed as part of each program's evaluation. Complaints to OSHA from employees whose employer is participating in a voluntary program will be handled in accordance with OSHA procedures. For evaluation purposes the employee will be queried regarding his/her knowledge and use of the internal system.

Instead of the Resource Liaison contemplated in the earlier Federal Register notice, an OSHA official with technical expertise will be designated as the contact person for each Voluntary Protection Program. Except for construction sites under "Star" and the experimental programs under "Try," the contact person will have no required on-site presence. On-site assistance for the two excepted situations will be arranged before approval.

Pre-approval program reviews will be conducted except where information gathered by an inspection within the last 18 months can be used to verify the information submitted by the applicant. Where reviews are necessary, they will be done by OSHA staff from the national office and field. Information gathered in such reviews will not be made available to enforcement personnel. Each review will be arranged at the applicant's convenience and will take no more than two days. Experience rates are only one factor that OSHA will weigh in considering these programs. These provide an indication, not a conclusive measure, of performance. The other qualifications are spelled out in the program descriptions which follow. Those accepted into "Star" will be evaluated after three years, unless serious problems are identified earlier, and "Try" participants will be evaluated annually.

We have clarified labor-management committee responsibilities for those programs where such committees are used. Assuring abatement is a management prerogative and

responsibility, and we have made this clear in the revised programs.

The agency will accept applications from interested parties for any of the programs, and, in accordance with the guidelines set forth above, may conduct on-site reviews of sites which appear to meet all of the program requirements, and will approve a limited number of participants in each category. We will remain cooperative and flexible in considering programs which will achieve our purpose. We will not, however, in any way diminish employer or employee rights and responsibilities. OSHA will periodically evaluate the Voluntary Protection Programs to determine what changes, if any, the agency should make.

EFFECTIVE DATE: July 6, 1982.

FOR FURTHER INFORMATION CONTACT: Frank Frodyma, Office of Policy Analysis, Integration and Evaluation, Occupational Safety and Health Administration, 200 Constitution Avenue, N.W., Washington, D.C. 20210, (202) 523-8021.

SUPPLEMENTARY INFORMATION:

I. Background

A. Introduction

On January 19, 1982, the Occupational Safety and Health Administration ("OSHA" and the "agency") published in the Federal Register a notice requesting information and comment about several possible initiatives to provide incentives for voluntary safety and health protection efforts by employers and employees. The agency invited public comments on the specified programs and requested suggestions for alternative programs. Comments were to be submitted by March 15, 1982.

The agency received numerous comments from businesses, unions, trade associations, State Labor Departments, and others. All submissions were made part of the official record and were considered.

B. Statutory Framework

The Occupational Safety and Health Act of 1970, 29 U.S.C. 651 et seq. (the "Act" and the "OSH Act"), was enacted "to assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources."

Section 2(b) provides a blueprint of activities which OSHA can use to carry out these purposes. In particular, the following provisions constitute the legislative authority for the Voluntary Protection Programs announced herein:

" * * * (1) by encouraging employers and employees in their efforts to reduce

the number of occupational safety and health hazards at their places of employment, and to stimulate employers and employees to institute new and to perfect existing programs for providing safe and healthful working conditions;"

" * * * (4) by building upon advances already made through employer and employee initiative for providing safe and healthful working conditions;"

" * * * (13) by encouraging joint labor-management efforts to reduce injuries and disease arising out of employment."

II. Voluntary Protection Programs

OSHA will accept applications for three Voluntary Protection Programs. The core program is the Star Program. As its name suggests, it is based on the characteristics of the most comprehensive safety and/or health programs used by American industry. Its standards are high, and it is not expected that large numbers of interested applicants will have the qualifications required for participation. It does recognize excellence in achieving significant accident reductions in high hazard industries by permitting applicants whose rates are lower than the average for their specific industry, but not necessarily lower than the national average for all manufacturing, to qualify if the other structural requirements are met.

Those employers whose programs and/or rates do not meet the "Star" requirements may be qualified for the more flexible experimental Try Program. In order to keep the flexibility desired in the program, OSHA has set very minimal and general requirements for "Try." Employers applying for "Try," however, will be expected to demonstrate to OSHA's satisfaction that significant accident or illness prevention will occur under the program.

Finally, the Praise Program provides the opportunity for OSHA to give recognition to employers in low-hazard industries who have better records than average for their industries. The Praise Program is a very different concept than "Star" or "Try," and different results should be expected from it. Protections, precautions and criteria found in "Star" and "Try" are neither necessary nor appropriate for "Praise." Only the lowest hazard firms of low-hazard industries are eligible for this performance recognition program. Because these firms are in low-hazard industries which do not appear on OSHA's targeting lists, they do not now receive routine inspections.

The emphasis in all of these programs is on implemented safety and/or health programs which encompass not just OSHA standards but all aspects of

health or safety relevant to the worksite covered by the program. They are voluntary programs in that they are not and will not be mandated. It is completely the decision of individual businesses and, where applicable, their unions, as to whether they wish to apply for participation. OSHA is seeking only those who want to cooperate in good faith with the agency to demonstrate the importance of good internal safety and/or health systems for the prevention of injuries and illnesses. OSHA encourages program participants to set goals for realistic reduction of injuries, illnesses and workplace hazards and for improved safety and/or health planning and programming. An applicant may be a company, a general contractor, or an organization of small businesses. An applicant which operates a single site, a multiple-employer single site, or multiple sites organized by one company, corporation or organization may be eligible.

Certain requirements pertain to all three programs. All require implemented safety programs. In all cases where employees take on safety-related duties for a voluntary program, the employer must assure that those employees will be protected from discriminatory actions resulting from those duties, just as Section 11(c) of the Act protects employees for the exercise of rights under the Act. Without such assurance, employees could not be expected to carry out these assigned safety duties with complete confidence.

It is also necessary to assure that voluntary programs are implemented in an atmosphere of cooperation if they are to succeed. Therefore, if a site covered by an application for any of these programs has a significant proportion of its employees organized by one or more collective bargaining agents, the employer must be able to demonstrate that the collective bargaining agent(s) do(es) not object to participation in such a program. Without such a demonstration, OSHA will not be able to approve program participation.

Once an applicant has been approved for participation in a program, all employees at the specific site covered by the approval, including new hires as they arrive, must be informed of the specifics of the approved program. Employees who understand these programs will be more likely to be aware of safety needs and will be able to help the programs succeed.

In all of these programs at all times, as in all agency initiatives, OSHA shall assure that participation in any of these programs shall not in any way diminish existing employer and employee rights

and responsibilities under the Occupational Safety and Health Act of 1970. More specific information about each of the programs follows.

The Praise Program

The Praise Program is directed toward employers in low-hazard industries who have good safety records and active safety programs. It is designed to provide recognition for past achievement in safety and to encourage continued improvements where possible. It will cover safety only.

Goals and Objectives

1. To recognize employers who have provided effective safety protection.
2. To encourage continued improvement in workplace safety conditions.

Qualifications

1. The applicant must be a member of a low-hazard industry which is defined as an industry which has an average lost workday injury case rate below the national average for the private sector; and,
2. The applicant must have an average lost workday injury case rate and injury incidence rate for the last five years below the national average for the specific (three or four digit SIC) relevant industry.
 - a. An applicant in business for less than five years but more than two may be considered on the basis of the average rates for the years actually in business.
 - b. OSHA shall reserve the right to review injury rates annually.

The Star Program

The Star Program is aimed at leaders in injury, illness and accident prevention programs. The Star Program may cover either safety or health, or both. There are two types of Star Programs, employee participation programs requiring the use of labor-management committees and management initiative programs requiring management accountability for safety and/or health and the provision of information feedback to all establishment employees. Due to the unique nature of the construction industry, particularly the seriousness of hazards, changing worksite conditions, its expanding and contracting workforce and high turnover, we will, for the foreseeable future, consider only proposals for employee participation programs in this industry. All participants in the Star Program shall be evaluated every three years.

Goals and Objectives

1. To demonstrate the importance of

comprehensive safety and/or health programs in the prevention of workplace injuries and/or illnesses.

2. To provide recognition to safety and health leaders.

3. To form a nucleus of workplaces for increased cooperative approaches to occupational safety and health problems.

4. To maintain excellent employee protection and to improve it where possible through the internal systems of the workplace.

General Qualifications for All Star Programs

1. The applicant must have an average of both lost workday injury case rates and injury incidence rates for the most recent three year period at or below the national average for the specific (three or four digit SIC) relevant industry.

2. If the applicant has been inspected by OSHA in the last three years, the inspection and abatement history should indicate good faith efforts to improve safety and health. For example, the company will not be eligible if it has received any upheld citations for willful violations of OSHA standards in the last three years.

3. The applicant must provide agreed-upon evaluation data for OSHA review.

4. The applicant must provide to OSHA written evidence of a safety program which establishes basic objectives in terms of the specific needs and problems of the company; addresses hazards specific to the workplace; includes any necessary personal protective equipment requirements; includes an employee training program in safe work practices; is effectively communicated and enforced; clearly assigns responsibilities for workplace safety and demonstrates high-level commitment and involvement.

5. The applicant must have an internal mechanism for responding to employee safety (and health) complaints in a timely fashion.

6. If health is to be covered by the program, the applicant shall provide a description of the program (which may be part of the safety program) which establishes basic objectives in terms of the specific health needs and problems of the company. It must include, as appropriate, an outline for company implementation and a means for monitoring and evaluating the program. Company procedures should include, as appropriate: industrial hygiene sampling and surveying; personal protective equipment program rules; employee training in personal protective devices, work practices and hazardous material

handling; and medical recordkeeping. The health program must include:

- (1) The services of appropriately trained personnel for initial and periodic monitoring of the workplace;
- (2) A medical program including the availability of physician services; and,
- (3) Testing, analyzing and sampling or surveys performed in accordance with nationally recognized procedures.

Additional Qualifications for Star Employee Participation Programs Only

1. The applicant must be able to demonstrate that it has a joint employer-employee committee for safety (and health) with the following characteristics:

a. A minimum of one year's experience providing safety (and health) advice and making periodic site inspections (construction applicants are exempted from this requirement);

b. Has at least equal representation by bona fide worker representatives who work at the site and who are either elected by all employees or selected by a duly authorized representative organization;

c. Meets regularly, keeps minutes of the meetings, and has a quorum consisting of at least half of the members of the committee with representatives of both employees and management; and,

d. Makes workplace inspections (with at least one worker representative) regularly, as needed, and has provided for at least yearly coverage of the whole worksite.

2. The joint committee must be allowed to:

a. Observe or assist in the investigation and documentation of major accidents;

b. Have access to all relevant safety and health information; and,

c. Have training so that the committee can recognize hazards, and have continued training as needed.

3. The applicant must assure that:

a. All hazards noted during site inspections by the joint committee or by management will be abated in a timely manner; and,

b. The following information will be retained and available for OSHA review during the pre-approval stage and for evaluation:

(1) Safety (and health, where applicable) program(s);

(2) Copies of the log of injuries and illnesses and the OSHA 101 or its equivalent;

(3) Agreement between management and the employee representatives

concerning the functions of the committee and its organization;

(4) Minutes of each committee meeting;

(5) Committee inspection and accident investigation records; and,

(6) Records of employee safety (and health) complaints received and action taken, taking into account appropriate privacy interests.

Additional Qualifications for Star Management Initiative Programs Only

1. The applicant must be able to demonstrate that, for at least one year, it has had the following characteristics:

a. Reasonable site access to certified safety (and health) professionals as well as medical personnel;

b. A system for holding line managers and supervisors accountable for safety (and health) conditions;

c. Routine site inspections by safety (and health) professionals which provide for at least yearly coverage of the whole worksite and for written reports of findings and abatement; and,

d. Internal safety (and health) audit or evaluation.

2. The applicant must routinely review job hazards for inclusion in training and hazard control programs.

3. The applicant must demonstrate that:

a. All hazards noted during management site inspections will be abated in a timely manner; and,

b. The following information will be retained and available for OSHA review:

(1) Written safety (and health) program(s);

(2) Copies of the log of injuries and illness and the OSHA 101 or its equivalent;

(3) Monitoring and sampling records (if health is covered by the program);

(4) Staff inspection and accident investigation records which also shall be available upon request for review by employees included in the program;

(5) Records of employee safety (and health) complaints received and action taken, taking into account appropriate privacy interest; and

(6) Annual internal evaluations or audits.

The Try Program

The Try Program is an experimental program to determine the effectiveness of alternative internal safety and health systems and to provide an opportunity for participation by employers who want to cooperate closely with OSHA to improve their safety and health performance. Unlike "Star," qualifications for firms wishing to take part in "Try" are fairly general. This will

allow the greatest flexibility in experimental program design. OSHA will, however, review each program to assure that it contains the elements necessary for success in meeting stated goals. Because of the experimental nature of "Try" and OSHA's limited resources, OSHA may not be able to accept all applicants satisfying minimum requirements.

Like "Star," "Try" may cover either safety or health or both. There are also both employee-participation and management initiative versions of "Try." Also like "Star," only proposals for employee participation programs will be considered in the construction industry. "Try" programs will be established for a period of time agreed upon in advance of approval and will be evaluated annually. The evaluation design will not be standardized but will instead be molded to fit each program. Demonstrably successful "Try" programs or ideas may be incorporated into "Star."

Goals and Objectives

1. To demonstrate the importance of complete safety (and health) programs in the prevention of workplace injuries (and illnesses).

2. To provide recognition and support to the provision of innovation in safety (and health) programs.

3. To increase safety (and health) protection through the internal systems of the workplace.

4. To develop and evaluate alternative internal systems for the prevention of workplace injuries (and illnesses).

General Qualifications for All Try Programs

1. The applicant should have an average of either the lost workday injury case rate or the injury incidence rate for the most recent three-year period which is at or below the national average for the specific industry (three or four digit SIC), show a downward trend over a three-year period, or indicate goals for reducing these rates and the methods by which the goals will be achieved.

2. If the applicant has been inspected by OSHA in the last three years, the inspection and abatement history should indicate good faith efforts to improve safety (and health).

3. The applicant must provide to OSHA written evidence of a program giving official recognition to the voluntary program, and the program itself must establish basic objectives in terms of the specific needs and problems of the company; address hazards specific to the workplace(s); include personal protective equipment requirements and an employee training program in safe work practices; be

effectively communicated and enforced; clearly assign responsibilities for workplace safety (and health) and demonstrate high-level commitment and involvement.

4. The applicant must provide agree-upon evaluation data.

5. The applicant must make regular site inspections, conduct accident investigations, and have an internal mechanism for responding to employee safety (and health) complaints in a timely fashion.

6. The applicant should have available sufficient safety (and health) resources for the size of the establishment(s) covered and the types of hazards faced.

Additional Qualifications for Try Employee Participation Programs

1. The program must have some aspect of active (rather than passive) employee participation.

2. Where employee representatives are used, they should be elected by all employees or selected by a duly authorized representative organization.

Additional Qualifications for Try Management Initiative Programs

1. The program should include a system for holding managers accountable for safety (and health) conditions.

2. The applicant should be willing to institute an internal system of audit or evaluation, if not already in place.

3. Staff inspection and accident investigation reports shall be available upon request for review by covered employees.

OSHA Responsibilities for "Praise," "Star" and "Try"

OSHA Contact Person

An OSHA technical official will be assigned to each program as a contact person. This person will be available to assist the participants as needed to assure smooth interface with OSHA and to provide expertise as required.

Pre-Approval Program Review

The "Praise" review will be confined to a review of records and a general assessment of safety conditions and facilities. Pre-approval review for "Star" and "Try" will include interviewing relevant parties such as committee representatives in employee participation programs, as well as reviewing records and a general assessment of (health and) safety conditions and facilities. Such information will not be made available to enforcement personnel. Preapproval program reviews will be arranged at the convenience of the applicant, if on-site

review is necessary. If the applicant has been inspected within the last 18 months, an on-site review may not be necessary.

Enforcement Activity

Programmed Inspections. Work sites enrolled in a program will be removed from OSHA's general schedule inspection list.

Workplace Complaints. Complaints will be handled in accordance with standard OSHA procedures. The employee will be queried regarding his knowledge and use of the internal complaint system.

Fatalities and Accidents. All fatalities or accidents shall be handled in accordance with standard OSHA procedures.

Variations

If a participant desires a variance from a standard, the OSHA contact will be available to assist in formulating the application, if requested. OSHA will ensure that the application receives attention in a timely manner. If the request is approved, OSHA will grant an interim order permitting the variance while the formal procedures are implemented.

Evaluation

OSHA will monitor the Praise Program by reviewing annual injury incidence and lost workday injury case rates. OSHA reserves the right to conduct on-site visits, in coordination with the company, to validate the safety program if serious problems arise.

All "Star" programs shall be evaluated every three years with a yearly review of experience rates and complaint activity. All "Try" programs will be evaluated annually for the duration of the program.

The following factors will be used to measure the effectiveness of "Star" and "Try" programs:

1. Comparison of rates to the industry average;
2. Satisfaction of the participants; and,
3. Nature and validity of complaints received by OSHA.

Employee participation programs will also be evaluated on the effectiveness of the joint committees. "Try" programs will have other individually designed evaluation measures.

Termination of Participation in the Programs

Participation can be terminated in either of two ways:

1. The firm or (where applicable) the employee representative(s) or (where applicable) the sponsoring organization may send a written notification of termination to OSHA and to any other

party or parties 30 days prior to termination (except where another time period has been agreed upon before approval); or,

2. OSHA may withdraw approval with written notification to the firm and (where applicable) to the employee representative(s) or (where applicable) to the sponsoring organization 30 days prior to termination (except where another time period has been agreed upon before approval).

Program Application

Effective this date, initial applications for any of the three programs should be sent directly to the OSHA Office of Policy Analysis, Integration and Evaluation (see contact address). After an initial period to allow adjustment to the application process for streamlining and other improvements, applications may also be forwarded to the appropriate OSHA Regional Administrator(s). OSHA staff will assist interested parties in the preparation of complete applications. OSHA assumes that these programs will generate widespread interest and expects a significant number of applications. Should the number of applicants exceed OSHA's available resources, OSHA may limit the number initially approved to achieve appropriate geographical and industry distribution and to establish firmly the principles of the different programs.

III. Summary and Analysis of Comments

Clarification

Several misconceptions about the agency's intentions regarding Voluntary Protection Programs were evidenced in the comments. Some commentators interpreted "voluntary" to mean that employers could choose whether or not to comply with OSHA regulations. In fact, what is voluntary is the choice to participate in these special programs, not whether to comply with OSHA regulations.

A few commentators suggested that OSHA planned to require the use of labor-management safety and health committees in all cases. The agency recognizes that, in many areas, particularly in unionized workplaces, labor-management committees have made important contributions to worker protection. On the other hand, OSHA is well aware that there are employers without labor-management committees who have been successful in providing safe workplaces. The Voluntary Protection Programs are designed to recognize the effective efforts in both the use of labor-management committees and management intensive systems and possibly in alternative systems. We understand, however, that

a voluntary program can succeed in a unionized establishment only if a non-adversarial climate exists. We will, therefore, expect an applicant with an organized workplace to demonstrate that the relevant union does not object to the firm's proposal. We anticipate that recognition of good systems will encourage innovation in providing safe and healthful workplaces.

A few commentors expressed concern that all of the requirements suggested for participation in the voluntary programs would be mandatory for all companies. Although, for the construction industry, safety programs and self-inspections are already required by OSHA standards, it was never OSHA's intention that any firm would have to adopt any particular method or establish any system not already required or in place. As one commentor stated, "To restructure existing programs which have been effective will not be an acceptable option." We wholeheartedly agree. OSHA designed the Voluntary Protection Programs primarily for those companies with demonstrated records of success and with superior safety and health programs already in place.

One commentor urged that OSHA hold public hearings. While there is no requirement to hold hearings on the voluntary programs, OSHA already has held numerous meetings with representative groups to elicit opinions and has established a record of public comment which provided ample opportunity for proponents and opponents to make their views known. Hearings would, therefore, be redundant, costly and serve no useful purpose.

The January Federal Register notice indicated that the Voluntary Protection Programs would be started on an experimental basis with a few pilot projects; however, OSHA feels confident that the programs as now structured will not require this developmental stage. On the other hand, the number of participants will be limited by OSHA's resources for review, assistance, and evaluation. At this point the agency plans to use the voluntary programs to form a strategy of positive impact. The programs are intended to encourage the formation of a nucleus of companies with superior health and/or safety programs for a progressively more cooperative, non-adversarial relationship with OSHA: to provide recognition to companies with good programs and to encourage their expanded use; and to facilitate the provision of safety and health programs to groups of small businesses.

Simplification

Many commentors expressed the view that the programs should be simplified and criteria for participation expressed in performance-oriented terms. In an effort to keep the programs simple and uncluttered, the six previously announced programs have been condensed to three.

The agency has combined the concepts of STAR, "Build" and PRIME into one program, retained the "Star" title and aimed the program at the best workplaces which can form a nucleus of cooperative activity with OSHA. There will be two types of "Star" workplaces: "Star" employee participation and "Star" management initiative. "Try" will be retained and expanded to include management initiative programs so that OSHA can evaluate alternative internal systems for the prevention of workplace injuries and illnesses and so that firms who have good safety records or are anxious to improve them may participate. "Praise" remains a recognition program for companies in low-hazard industries which have good safety records and active safety programs. The agency has simplified qualifications for the programs so that companies with different safety and health systems, with quantifiable results, may be eligible for participation.

Applicant Eligibility

The question of whether programs should be approved by individual site or for multiple sites prompted a variety of responses. Those favoring approval on an individual site basis pointed out that the conditions, as well as the severity of hazards, vary from one site to another within a corporation and that the normal management structure is organized by site. Those favoring multi-site approval maintained that a corporate-wide program is managed by the same executive, that a good corporate safety and health program could only be effective if implemented corporate-wide, and that a small facility could utilize corporate resources. Other commentors expressed the view that companies should be allowed to choose which form of participation would be most effective for them based on the structure of their safety and health programs. One commentor observed that control of the safety and health program is the central issue, and where control can be demonstrated, participation should be permitted on a corporate-wide basis. To provide flexibility and meet the needs of potential applicants, the agency has decided to allow participation for companies either by site or by multiple sites. Each participating site will, at

OSHA's discretion, receive an individual evaluation.

The agency has concluded that a good way to provide for small businesses that cannot qualify on their own for participation in "Star" or "Try" is to allow the participation of organizations representing groups of small businesses. Since this is a new concept, the agency does not expect many small business groups to meet the qualifications for "Star," although OSHA will accept applications from any which think they do. Such groups, more likely, will be eligible for "Try." If, in reviewing initial applications, the agency finds that organizations of small businesses do not fit well into either the Star or Try Programs as designed, the agency will make the necessary changes and announce them in the Federal Register.

Incentives

The record confirms OSHA's suggestion that exemption from general schedule inspections should serve as an incentive for participation in Voluntary Protection programs.

Several commentors suggested that OSHA provide expedited procedures for granting variances to standards for participants. Recognizing that a variance will be granted only where an employer can demonstrate that the conditions are as safe and healthful as those required by the standards, OSHA will work with participants to ensure that variances, where warranted, are authorized in a timely fashion. As with all variances, employees would have to be notified of the variance application, when submitted, and an interim order, if granted.

Complaints

As indicated in the January Federal Register notice, accidents, fatalities and complaints of imminent danger will be handled through standard OSHA procedures.

The question of complaint handling received much attention. Some commentors recommended that all complaints should be referred to the participating organizations. Others recommended that all complaints be handled in accordance with OSHA procedures. We now recognize that the complaint procedure suggested in the former Federal Register notice added to the complexity of the programs. Therefore, we have reached what we feel is the appropriate middle ground by, on one hand, requiring that all participants in the "Star" or "Try" voluntary programs have some means whereby employees can notify their employers of hazardous conditions that they believe are present in their

workplaces. On the other hand, OSHA will handle employee complaints in accordance with its current system. We think that we ought to recognize, however, the fact that there may always be some well-intentioned individuals who simply may not be aware of the existence of an internal system at their workplaces. Therefore, when an employee whose employer is participating in a voluntary program calls an OSHA office to register a complaint, the individual will be queried regarding his or her knowledge and use of the internal system. This will give us a means, admittedly imprecise, to measure a participant's communications with employees and employees' reactions to the internal system.

Resource Liaison

In discussing the role of the Resource Liaison (RL), a wide variety of commentors, representing unions, trade associations, businesses, and academics, expressed concern that the previously described role of the RL would be a strain on OSHA's limited resources and would detract from OSHA's enforcement efforts. Others pointed out that companies with superior programs do not need more intensive oversight from OSHA than they are currently receiving in order for them to provide safe and healthful workplaces.

These are valid considerations, and accordingly, OSHA has concluded that instead of an RL there will be a contact person designated for each program. This individual will be available to provide assistance on request but will not have a specific on-site monitoring role. There are two exceptions. Where a labor-management committee is newly organized for participation in the Star Program in construction, there will be some oversight required to be agreed upon by the parties. Each Try program also will require more supervision to be negotiated on a case-by-case basis.

Pre-Approval Program Review

The comments confirm the need for pre-approval program review to verify the information submitted by the applicant. OSHA will conduct an on-site program review of each program for which verification information does not exist from a recent (within 18 months) inspection. On-site review, where necessary, will take no more than two days at each site and will be conducted by OSHA staff from the national office and field. The review will include a records check, talks with relevant parties and a general evaluation of safety and health conditions. A review

will be conducted only after the agency is satisfied that, on paper, the applicant meets the requirements for participation. The review will be arranged at the convenience of the applicant, and information gathered will not be made available to enforcement personnel.

Evaluation

The record also substantiates the need for periodic evaluation. Each "Star" program will be evaluated after three years' operation, unless serious problems are identified earlier. "Star" management initiative programs will also be required to conduct at least annual self-evaluations. "Try" programs will continue to be evaluated annually by OSHA, although a successful "Try" program may eventually move into the "Star" category and thereby modify the evaluation requirements.

Most commentors agreed that a specification requiring that a company maintain evaluation data for OSHA review should be included in the voluntary programs. Commentors recommended several kinds of records that OSHA might review including: internal complaint records; accident investigation reports; self-audit or evaluation reports; worksite inspection reports; health monitoring and sampling records, where applicable; labor-management committee records, where applicable; and the injury-illness log. The parties to voluntary programs will have to make a good faith effort to evaluate the needs and accomplishments of each individual program. There is no universal yardstick to measure every aspect of a voluntary program. Thus, the particular data needed for each evaluation will be tailored to a certain extent to the individual safety (and health) program.

Experience Rates

Many commentors expressed concern that OSHA might base program evaluation solely on experience rates such as injury incidence rates, lost workday injury case rates or experience modification factors assigned by insurance companies. Our position is that experience rates must be considered as an indicator, not a conclusive measure, of performance. The Voluntary Protection Programs are designed to verify our belief that a comprehensive prevention program will provide a safe workplace.

A few commentors suggested that falsification of records could be a potential problem. Some commentors suggested having the responsible person sign the record. The OSHA 101 form and the OSHA 200 summary require signatures now. Since OSHA will use experience rates in conjunction with

other measures, the agency does not consider that falsification will be a major concern. In addition, as many commentors noted, the criminal penalties for records falsification that OSHA already has in place are a considerable deterrent.

Some commentors questioned the use of workers' compensation data since that data may be affected by various factors unrelated to safety and health. OSHA is aware that, even under the best of circumstances, workers' compensation data will not provide a "match" to the OSHA log; however, we believe that first reports of injury (workers' compensation information) can provide some useful data. Another objection raised to the use of workers' compensation data was that it was an intrusion into an area beyond our jurisdiction. Under current OSHA regulations, employers may use workers' compensation reports instead of the OSHA form 101 to supplement the information on the OSHA 200 log. OSHA will only use workers' compensation reports in Voluntary Protection Programs when the employer has chosen to substitute them in this manner.

The use of experience rating modification factors was suggested as the sole measure of performance by one commentor. While OSHA recognizes that experience rating has worked well for the insurance industry, experience modifiers have limitations that preclude the agency's using them as the single criteria for participation. This notice has already addressed the question of basing these programs on experience rates alone. In addition, experience modifiers are not universally available and may be skewed if a firm pays the injured worker's compensation costs rather than submitting a claim. Where the employer makes the experience modifier available and its use is valid, OSHA will accept it as one indicator of a firm's safety performance.

In responding to the question concerning what experience rates OSHA should use in its criteria, commentors strongly favored using both lost workday injury case rates and injury incidence rates averaged over three years and compared to the national average for the specific industry. As one commentor stated, "Qualification based on a combination of lost workday cases and incidence rates will give a better picture of the recent effectiveness of an employer's accident prevention program than qualification based on lost workday cases alone." The agency has adapted that recommendation to each Voluntary Protection Program, giving consideration to the other qualifications for

participation in each. The individual program descriptions elaborate upon the requirements.

Committee Responsibilities

A number of comments were received regarding the responsibilities of labor-management committees in those programs where they are used. Most commentators thought that the responsibilities suggested by OSHA were reasonable and proper. Many commentators did, however, express concern that committee members might be held liable for workplace injuries and illnesses. This is not our intent, and it is important to guard against such liability. The committees, any organizations represented on them, and any individuals serving on them are not assuming the employer's statutory or common law responsibilities for providing safe and healthful workplaces, and the committees are in no way undertaking to guarantee a safe and healthful work environment. Instead, the committees are an additional tool to be used with those provided for in the law. Thus, the firm will continue to assure that any hazard in violation of OSHA standards noted by the committee will be abated in a timely fashion.

Many commentators expressed the view that requiring a specific frequency for labor-management committee meetings and inspections was unnecessarily rigid and that the optimum frequency should be determined on an individual basis by the participants. OSHA agrees that this is an area where more achievement-oriented criteria should be applied. Although OSHA prefers monthly meetings and inspections, the agency would consider less frequent arrangements depending on the size of the firm and the hazards in the workplaces if the arrangements are agreed to by all parties. In all cases, OSHA would expect that, at a minimum, the entire worksite would be inspected once each year.

The agency requested comment on training of new hires and of labor-management committee members. The record in regard to training new hires on the existence of the Voluntary Protection Program and the use of the labor-management committee clearly recognizes the need to include these topics in the new hire's initial orientation, and that is what OSHA will expect. Commentors suggested various alternatives for committee training, including OSHA's 10-hour course, use of the OSHA-funded consultation service, private consultants and insurance companies. The agency believes this is another area where achievement-

oriented language is appropriate. OSHA's major concern is that committee members are able to recognize hazards. The applicant must be able to demonstrate this to OSHA's satisfaction.

Construction

Since the structure for establishing and monitoring construction programs is not substantively dissimilar to "Star," the agency concluded that a separate program is not needed. OSHA has addressed this issue in the integration of the construction voluntary protection program into "Star." In integrating the proposed "Build" program into "Star", OSHA has also transferred the elements drawn up by the Construction Advisory Committee to apply to construction sites only. These include construction site eligibility for employee participation programs only, the acceptance of new labor-management committees for "Star" and a stronger role for the OSHA contact person.

The restriction of construction applicants to employee participation programs is a reflection of the seriousness of the hazards in the construction industry and the need for cooperation between employees and management to alleviate those hazards. Since management initiative programs will not be open to construction sites and since employee participation is relatively new in the construction industry, committees will not be required to have one year's experience as they are in other industries with long histories of effective cooperative problem solving. In these cases, the OSHA contact person assigned to assist the site program will have an expanded role as agreed upon before approval.

In addition, based upon the comments received, we have decided, that for a particular site to be eligible for participation in "Star," all subcontractors at the site must be covered by a participatory arrangement with the general contractor. Since the agency is offering participation to organizations of small businesses, OSHA will consider applications from associations of contractors which provide a system of protection to the participating worksites. Even in this case, however, the agency expects that all the subcontractors on each site will be included in the general contractor's program. The size of these group programs, the duration of the general contractor's involvement at a particular worksite, or the stage of construction at any site will not be relevant criteria for choosing group programs, but they are

important considerations for a program at a single site.

Consultation

While OSHA-funded consultation services can be useful resources for businesses needing help in establishing good health and safety programs, the consultation services cannot be used to provide routine services or run a firm's safety and health program. The agency expects that companies which apply for participation in the Star Program will already have established superior health and safety programs and probably have no need for OSHA-financed consultation services. Those companies and small businesses which need help in improving their programs would find the Try Program more appropriate for them.

State Plans

The agency, in an effort to obtain the views of those potentially affected, requested comment on how State participation in any of these voluntary programs should be implemented. Most commentators favored encouraging some type of State participation.

OSHA will provide States with information from the voluntary programs and will work with them to develop an equitable method for handling employers under their jurisdiction who wish to participate in any of the Voluntary Protection Programs. Indeed, many States already have programs similar to "Praise". The agency expects that other States may choose to develop voluntary programs similar to "Star" and "Try".

Termination

Two questions were posed by OSHA concerning termination of individual Voluntary Protection Programs. The first addressed what changes in experience rates, if any, should cause termination. Many commentators expressed the view that participants should be allowed a range of acceptable performance and that deviation above the range should be investigated. Since experience rates are only one consideration that OSHA will use, the agency may examine rate increases to determine why they have occurred.

The second question addressed the need for immediate termination. Our conclusion is that the question of continuing approval should depend on whether or not a program is constituted properly to respond to situations as they develop. OSHA has the authority to cancel a program, or to take other appropriate action, as well as the obligation to investigate fatalities or accidents and to issue necessary citations. Even when good faith is

shown, however, we realize that some situations will not yield dramatic changes quickly. We recognize, nevertheless, that situations may arise where one of the parties may want to withdraw from the program, and we feel it is equitable, in most cases, to establish a 30-day notice period prior to termination.

IV. Decision

After carefully reviewing all the submissions in the record and having

made every effort to be responsive to the concerns raised, the Assistant Secretary has decided to implement the Voluntary Protection Programs as revised herein.

V. Effective Date

July 6, 1982.

VI. Authority

This document was prepared under the direction of Thorne G. Auchter,

Assistant Secretary of Labor for Occupational Safety and Health, United States Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C., this twenty-ninth day of June, 1982.

Thorne G. Auchter,
Assistant Secretary of Labor.



Journal

MEETINGS SCHEDULED

July 22-23 — Workshop for Confined Space Entry, New Orleans, La. (Loss Prevention Associates, P.O. Box 59888, Dallas, Texas 75229; tel: (214) 241-0396).

The course also will be held August 19-20 in Phoenix, Ariz.

July 23 — Developing an Effective Safety, Health, or Waste Management Training Program, Atlanta, Ga. (National Hazards Control Institute, P.O. Box 1085, Alpha, N.J. 08865; tel: (215) 258-7045).

The course also will be held Aug. 26 in Richmond, Va., Sept. 17 in Wayne, N.J., and Sept. 23 in Baton Rouge, La.

July 26-27 — Laboratory Safety and Environmental Control, Boston, Mass. (National Hazards Control Institute, P.O. Box 1085, Alpha, N.J. 08865; tel: (215) 258-1045).

The course also will be held Nov. 4-5 in Los Angeles, Calif.

July 27-28 — The New Occupational Health Nurse, Atlanta, Ga. (Raymond P. Boylston, Ennis, Lumsden, Boylston and Associates, Suite 115, 400 Eastowne Dr., Chapel Hill, N.C. 27514; tel: (919) 439-4471).

July 28-29 — Design and Evaluation of Laboratory and Local Exhaust Ventilation Systems, Los Angeles, Calif. (National Hazards Control Institute, P.O. Box 1085, Alpha, N.J. 08865; tel: (215) 258-1045).

The course also will be held Oct. 28-29 in Chicago, Ill.

July 29 — Forklift Safety Training Course, Burbank, Calif. (The Training Institute, 616 South Westmoreland Ave., Los Angeles, Calif. 90005; tel: (213) 385-6461).

The course also will be held August 26 in Burbank, Calif.

July 29-30 — Occupational Health Nurse Up-Date, Atlanta, Ga. (Raymond P. Boylston, Ennis, Lumsden, Boylston and Associates, Suite 115, 400 Eastowne Dr., Chapel Hill, N.C. 27514; tel: (919) 493-4471).

July 31 — Forklift Truck Operators Training Course, Boston, Mass. (Richard F. Schober, Massachusetts Safety Council, Inc., 286 Summer St., Suite 300, Boston, Mass. 02210; tel: (617) 542-6067).

August 2-6 — Industrial Hygiene Certification Review Course, St. Paul, Minn. (Ruth K. McIntyre, Director, Continuing Education, Midwest Center for Occupational Health

and Safety, 640 Jackson St., St. Paul, Minn. 55101; tel: (612) 221-3992).

August 2-6 — Sampling and Evaluating Airborne Asbestos Dust (NIOSH 582), Tucson, Ariz. (Herschella L. Horton, Coordinator for Continuing Education, Arizona Center for Occupational Safety and Health, University of Arizona Health Sciences Center, Tucson, Ariz. 85724; tel: (602) 626-6835).

August 2-6 — Rocky Mountain Comprehensive Review for Industrial Hygiene, Salt Lake City, Utah (Ms. K. Wiese, Registration Coordinator, Rocky Mountain Center for Occupational and Environmental Health, Building 512, University of Utah, Salt Lake City, Utah 84112; tel: (801) 581-5710).

August 3-5 — Hazardous Material Safety and Health Management, Denver, Colo. (National Hazards Control Institute, Research Park, P.O. Box 1085, Alpha, N.J. 08865; tel: (215) 258-7045).

August 4-6 — Indoor Air Conference, Seattle, Wash. (Jack Rider, Northwest Occupational Safety and Health Educational Resource Center, University of Washington, SC-34, Seattle, Wash. 98195; tel: (206) 543-1069).

August 8-11 — Tennessee Safety Congress & Exposition, Nashville, Tenn. (Tennessee Safety Congress, P.O. Box 40641, Nashville, Tenn. 37204; tel: Tennessee Department of Labor (615) 741-2793).

August 9-11 — Council on Accreditation of Occupational Hearing Conservationists Certification Course, Tucson, Ariz. (Herschella L. Horton, Coordinator for Continuing Education, Arizona Center-Occupational Safety and Health, University of Arizona Health Sciences Center, Tucson, Ariz. 85724; tel: (602) 626-6835).

August 9-12 — Fire Prevention for Power Plants, Knoxville, Tenn. (Judy K. Smith, Professional Loss Control, Inc., P.O. Box 446, Oak Ridge, Tenn. 37830; tel: (615) 482-3541).

August 10 — Manufacturing Safety, Part 2, Burbank, Calif. (The Training Institute, 616 South Westmoreland Ave., Los Angeles, Calif. 90005; tel: (213) 385-6461).

August 11-13 — Recognition of Accident Potential in the Workplace Due to Human Factors (NIOSH 512), St. Paul, Minn. (Ruth K. McIntyre, Director, Continuing Education, Midwest Center for Occupational Health and Safety, 640 Jackson St., St. Paul, Minn. 55101; tel: (612) 221-3992).

On-Site Consultation

EXPANDED PROGRAM FOCUS, EXEMPTIONS FOR EMPLOYERS DETAILED IN DRAFT REVISION

Proposed revisions to on-site consultation regulations in 29 CFR Part 1908 currently under consideration by the Occupational Safety and Health Administration would expand the focus of consultative visits to reflect a "broader concern" for workplace safety and health programs, and provide exemptions from general schedule inspections to employers "meeting specified consultation conditions."

The changes are detailed in a draft proposal that has been approved by the Department of Labor for submission to the Office of Management and Budget, according to OSHA officials.

Two factors prompted the proposed revision, according to supplementary information in the draft document. One factor was the "practical experience" that OSHA and the states have gained with on-site consultation agreements since 1977, when Part 1908 was last amended (Reference File, 41:5401). The second consideration was OSHA's "desire to provide even broader and more beneficial consultative services."

Under current procedures, consultative visits usually address specific conditions about which an employer expresses particular concern. The draft proposal would broaden this scope. "When making a request [for consultation], an employer shall generally be encouraged to include within the scope of such request all working conditions at the worksite and the employer's entire safety and health program," the draft stated.

The objective of this proposed change is to "enable employers to become more self-sufficient in providing effective employee protection by improving their knowledge and understanding of safe and healthful working conditions and practices, and by improving their systems and procedures for ensuring that those conditions and practices are maintained," the draft document remarked.

However, in the interest of flexibility, "a more limited scope may be encouraged in larger establishments," the proposal noted. Consultative visits focused on specific conditions or hazards still would be permitted, but if the consultant should observe any other hazards in the course of the on-site visit, those hazards would be addressed as well, the draft indicated.

Notification of Employees

Employers would be encouraged under the draft proposal to notify affected employees of hazards that have been identified, and corrections of those conditions. The agency said it "recognizes the concern of many employers that the results of an on-site consultation visit be confidential not only in relation to OSHA enforcement but also in relation to their own employees." However, "OSHA is also aware of the concern of employees and employee organizations that they be kept informed of any occupational safety and health hazards identified in their places of employment," the draft document stated.

The proposal would retain current requirements on preserving the confidentiality of employers which request on-site consultation, and the records resulting from such visits. However, the revision would permit consultation project managers to notify OSHA of the identities of employers which have qualified for one-year inspection exemptions.

In scheduling on-site consultation visits, the state consultative service would assign priority to requests from businesses "with the most hazardous operations, with primary attention to smaller businesses," according to the draft proposal. OSHA said it believes that smaller businesses are "generally least able to afford access to professional safety and health assistance, and that those with the most hazardous operations are most in need of such assistance."

Further, in assigning priority to requests from smaller businesses, preference would be given to those from companies in high hazard industries, or those which have the most hazardous conditions at issue in the consultation request, according to the draft.

A new "off-site" consultation program would be established under the proposal, in which consultative services could be provided by telephone and correspondence instead of an on-site visit. "OSHA would like to make consultative services more easily available, and experience has shown that in some cases assistance by telephone or correspondence, or at such locations as the consultation project offices, is more appropriate, cost-effective, and productive than an on-site visit," the draft asserted.

One Year Exemption

The draft proposal also would exempt employers, on request, from general schedule inspections for one year following the closing conference of an on-site consultation visit, on certain specified conditions. To qualify for an exemption, a company would be required to:

- ▶ Ask for a consultative visit covering all conditions in the workplace.
- ▶ Make a commitment to correct all serious hazards found during the visit "within established timeframes."
- ▶ Post a notice of a correction when the correction is completed.
- ▶ Demonstrate to the consultant that an effective safety and health program exists or will be established within a specified time.

Such exemptions would provide an incentive to use on-site consultation, and would avoid duplicative enforcement activity in establishments "already effectively covered by consultation," the draft contended.

A similar program currently is in effect on a pilot basis in seven states (Current Report, July 14, p. 158). OSHA noted that the pilot program pertains only to fixed worksites. It would be the agency's intention to maintain this limitation for any exemption program established under the revised rules, until a pilot project can be put into effect and evaluated for non-fixed worksites in one or more OSHA regions, the draft stated.

Where needed, an employer could request extension of the time period for correcting a hazard identified in a consultative visit, the draft document proposed. The employer would have to show that a good faith effort had been made to correct the hazard within the period originally provided, that the work had not been completed due to factors beyond the employer's control, and that interim steps were being taken to protect workers.

Past experience indicates that employers, for "legitimate reasons," are not always able to complete the correction of serious hazards within the time originally provided, the draft asserted.

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“New Cal/OSHA Cooperative Compliance Project Begins in the South Bay,”
Cal/OSHA News Release, July 20, 1981 7

“Third Cal/OSHA Cooperative Compliance Project Agreement,”
Cal-OSHA Reporter, May 24, 1982 9

“Employer-Union Compliance Agreement No Bar to Inspections, Law Judge
Says,” *BNA Occupational Safety and Health Reporter*, Aug. 19, 1982 10

“Positive Results Reported on Six Cal/OSHA Cooperative Self-Inspection
Projects,” Cal/OSHA News Release, Nov. 28, 1983 11

“Small Employer Consultation Program Given Approval, OSHA Says in Notice,”
BNA Occupational Safety and Health Reporter, Aug. 4, 1983 14

“Cal/OSHA Consultation Service Expands Small Employer Voluntary
Compliance Program,” *Cal/OSHA News*, Nov. 1983 15

“Cal/OSHA Move to Exempt Most Firms from Inspections Hit,”
California AFL-CIO News, Nov. 11, 1983 16

Section II – CALIFORNIA PROGRAMS

Several voluntary self-inspection programs have been established in California. In these programs, a joint labor-management committee is set up, along with a consultation agreement with Cal/OSHA, and the workplace is exempted from routine inspections by the agency. The first and best-known of these programs was set up in 1979 at the San Onofre nuclear power plant construction site in southern California. These California programs are experimental and are not mandated by law.

A type of program which has been adopted formally is California's voluntary compliance program for small employers. Originally, this plan exempted employers of 50 or fewer workers from routine inspections, after meeting certain requirements. This exemption has now been extended to employers of 250 or fewer workers.

Both the small employer plan and voluntary self-inspection programs are detailed in this section. Discussion and examples of both are given.

Self-regulation: An idea whose time has come ?

LABOR-management safety committees over the years have attracted a hard core of enthusiasts who swear by their efficacy, but in a national perspective, the number of such committees is comparatively few.

However, that may soon be changing. Thorne Auchter, Assistant Secretary of Labor — OSHA, has gone on record a number of times in the past few months strongly advocating the committee concept. In his confirmation hearing before the Senate Labor and Human Resources Committee in March, Auchter maintained that "in the area of active labor-management programs . . . more needs to be done. For example, I would hope that we could create incentives for workplaces instituting effective labor-management safety and health committees." And in April, in a speech before the Synthetic Organic Chemical Manufacturers Association, he listed labor-management programs as one of a number of "new ideas" that will be tried by the Reagan Administration in implementing the OSH Act. "My experience with collective bargaining leads me to believe that when labor and management have a problem, they can often solve it best at the bargaining table without the interference of third parties," he said.

The success story singled out by Auchter and others is the program in effect at the San Francisco-based Bechtel Corp.'s San Onofre nuclear power plant construction site. It's a management-labor safety committee with a new dimension.

Specifics

Some 30 miles up the Pacific coast from San Diego, near San Clemente, over 4,500 craftsmen and laborers have been working on the construction of two 1,100-megawatt units on the 28-acre San Onofre site since 1975. Bounded by the ocean, Highway 5 to the east and sandstone bluffs on the south, one unit is about to go operational, and the second is slated for completion sometime in 1983. A previously built unit is already in operation.

Bechtel has consistently posted accident and injury rates considerably lower than industry averages on their construction jobs, and as work progressed at the San Onofre site, this record remained intact. Nonetheless, inspectors from the State of California's Division of Occupational Safety and Health (California, through the so-called Cal/OSHA, operates a State plan under section 18 of the OSH Act) were frequent visitors. In 1978, for example, San Onofre was inspected 12 times. The result? A single violation of Cal/OSHA safety and health standards was uncovered.

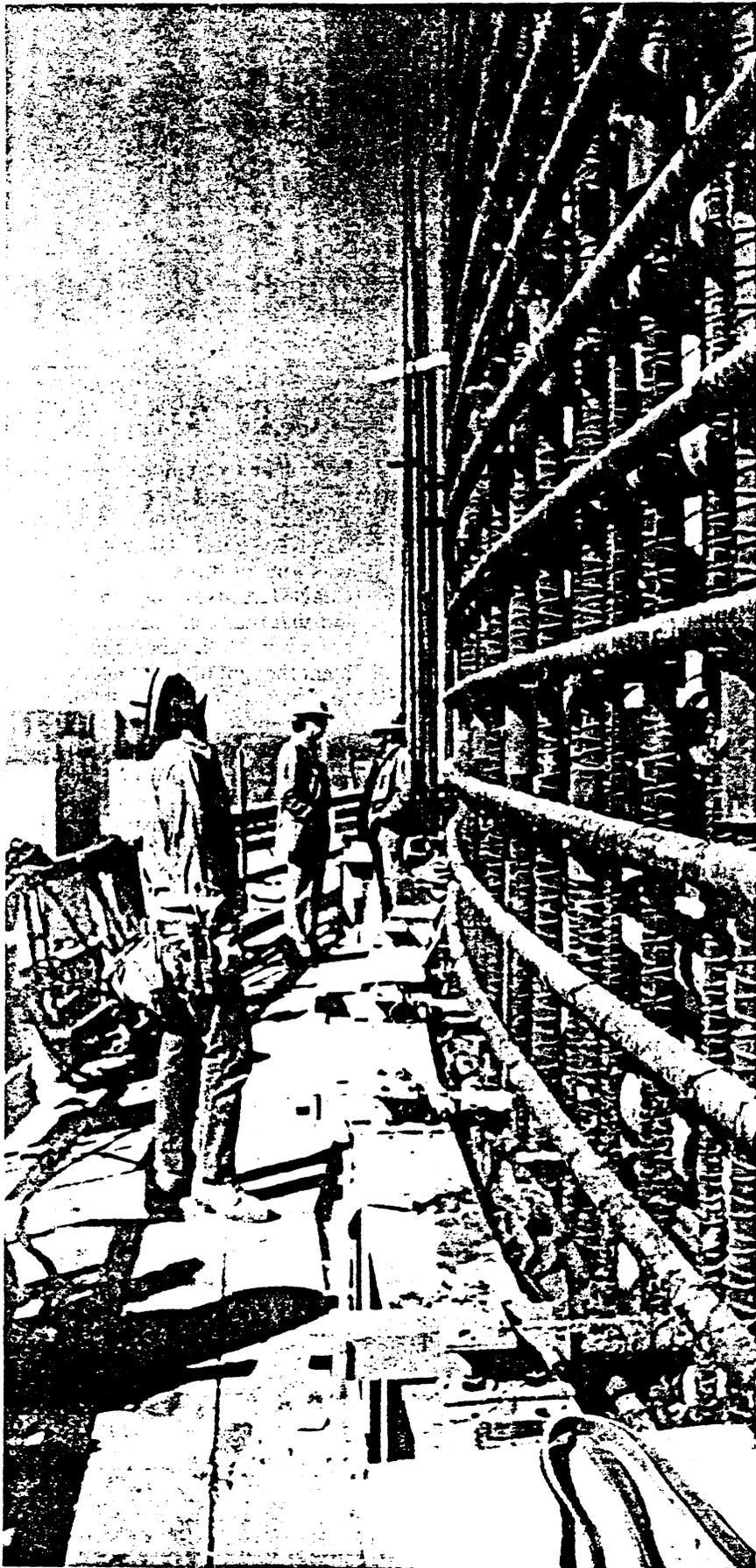
It was about this same time that Bechtel management and the labor unions on the job began to explore the possibility of setting up a joint

labor-management safety committee. The reason was obvious, according to Bechtel's Manager of Safety, Robert Atkinson: "There was the continuing presence of Cal/OSHA inspectors on our job, a job that really did not call for such attention. Both labor and management thought that it would be better to form an on-site committee to handle inspections and complaints, so that the State inspectors could be freed up to cover jobsites that really needed help."

Consequently, just such a committee agreement was hammered out between the two parties, with the help of the National Constructors Association and the California Building and Construction Trades Council. Both Cal/OSHA and Federal OSHA were also deeply involved in the planning and implementation of the Bechtel plan. Unlike the usual type of labor-management committee, which only serves in an advisory capacity regarding working conditions, the proposal at San Onofre would allow the committee to take over duties (i.e., inspections, complaints) traditionally handled by government personnel. Therefore, OSHA and Cal/OSHA officials made certain

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"I think the committee has demonstrated that labor and management working together can do the job when it comes to safety and health, without government interference or involvement."



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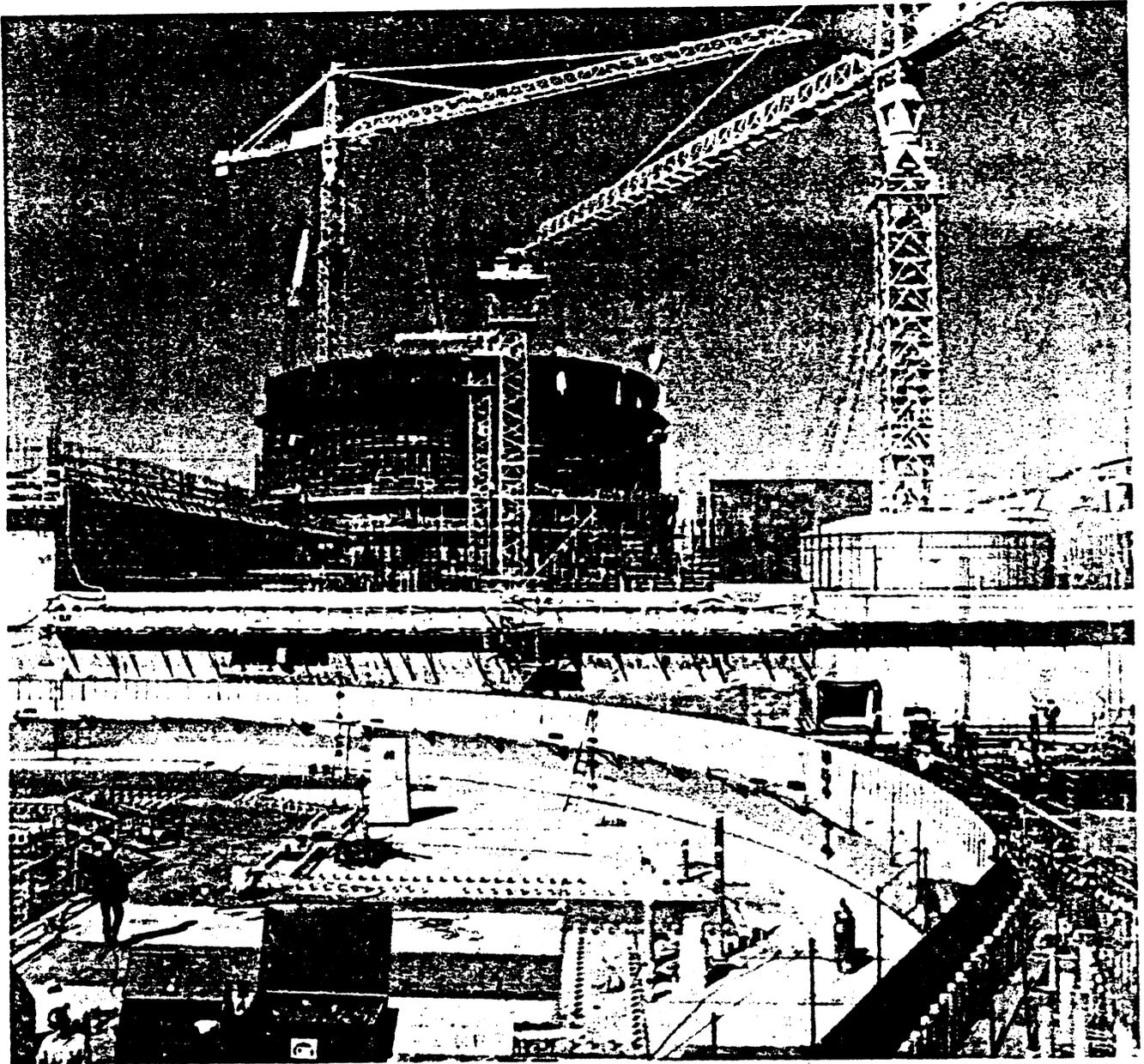
that the agreement would provide employee protection equal to that offered by State and Federal statutes before consenting to it.

Kicked off in March of 1979, the 4-member committee (two representatives from management, and two from labor) has since met weekly to discuss any safety problems that crop up, has conducted monthly walk-around inspections, and has developed an in-house capability for handling employee complaints. In short, the committee mechanism affords a form of self-regulation; on-site labor and management personnel handle the duties normally assumed by State or Federal inspectors.

"It's important to emphasize that the committee doesn't have jurisdiction over Bechtel's safety program, just the inspections and handling of complaints that Cal/OSHA would normally be handling at the San Onofre site," Atkinson told us. "And the program does have a safety valve, in the sense that management or labor can pull out of it at any time." That doesn't seem likely, at least from Bechtel's standpoint, given the benefits that have accrued thus far. "I think the committee has demonstrated that labor and management working together can do the job when it comes to safety and health, without government interference or involvement," Atkinson said. "The cooperation between management and labor has increased, along with safety awareness and communication."

Other voices

"I think it is one of the finest safety and health programs in existence," says James Lee, president of the California Building and Construction Trades Council of the AFL-CIO. "In the past, it was unheard of for a building tradesman to file a complaint and sign his name to it. There was always that fear of getting fired for speaking up. But now, our members at San Onofre do complain when there is reason to, because they have been made aware of safety and health hazards and have confidence that the committee will handle their complaints prop-



At Bechtel Corp.'s San Onofre, Calif. nuclear power plant construction site, a management-labor safety committee meets weekly to discuss safety problems, conducts monthly walk-around inspections, and handles employee complaints.

erly."

Arthur Carter, chief of Cal/OSHA, told us, "The agreement between management and labor at San Onofre is, in our view, working well. We wanted to make sure that in using the self-inspection committee system employees' rights weren't stepped on. After two years, we've found that their rights have actually been enhanced."

According to Carter, the system holds advantages for all parties involved. "Labor gets complaints handled more quickly, management gets to deal with issues directly, and for both there is less adversarial face-off when it comes to safety and health matters. We at Cal/OSHA,

meanwhile, get to concentrate scarce resources on workplaces that really need our attention."

At the same time, he admits that there were some start-up problems and that a few kinks remain. "Some union people weren't crazy about the idea at first, because they didn't think that Bechtel, based on its safety record, deserved a pilot project opportunity. And some of the subcontractors on the job weren't clear on how they would be involved in the program. We've got those problems behind us, but we're still faced with a need for more hazard recognition training on the part of both management and labor."

A Cal/OSHA inspector monitors

the San Onofre committee full-time and regularly reports back to Carter directly. Initially, this inspector was sitting in on meetings or participating in walkaround inspections, and there were complaints from both management and labor about his ubiquitous presence. Carter said he understood the gripes: "If monitoring labor-management committees becomes more of a burden than government inspection, then self-regulation is not going to work at San Onofre or anywhere else." But he also defends Cal/OSHA's heavy involvement at the outset of the program: "We wanted to make sure it just wasn't a paper agreement. Consequently, we were very in-

volved at the beginning, but that involvement has since been phased down."

Like the State agency, OSHA's regional office in San Francisco has been involved with the San Onofre labor-management committee from the planning stages through implementation up to the present. Gabriel Gillotti, OSHA's regional administrator, described the quid pro quo involved in setting up the program: "Basically, the labor and management groups came to us and said, 'These are what we see as our responsibilities under the OSH Act, so if the safety program is beefed up, and a commitment is made to make the labor-management committee concept work, what can you do for us?' For OSHA, that meant helping out with the implementation of the program by educating the workforce in hazards recognition and calling in consultants to help solve specific problems."

In the minds of some, however, OSHA's "help" was both a blessing and a curse. The first storm warnings arose when, in the words of Cal/OSHA's Carter, "the Bechtel proposal was finalized on our end and then sent to Washington to allow OSHA officials to check it over. They sat on it for over a year." Carter said the proposal was submitted to Washington for approval "so that no one would be put in the position of having the Federal government coming in after the program started and saying it wasn't good enough, that it didn't provide protection equal to that available under the OSH Act." But, he adds, "After a number of months of delay, both the local unions and Bechtel management got disgusted, and I shared that feeling. If I had it to do all over again, I would tell OSHA that this is what we've got, and if you don't like it, take your best shot, and we'll see who comes out on top."

OSHA's Gillotti admits that there was a certain lack of enthusiasm for the Bechtel plan among agency higher-ups in the previous Administration. "Look, Eula Bingham could have hit some people over the head to get the job done if she'd wanted to," he told us. "But there was the feeling that the risk was too high, and some staff attorneys were

saying that something like the Bechtel proposal wasn't allowed under the OSH Act, that only OSHA could handle complaints. Let's just say that a lot of convincing had to be done within OSHA before the plan was approved."

The second flare-up came in early 1980, when two staffers from OSHA's Office of Policy Analysis, Integration and Evaluation visited the San Onofre site and prepared an evaluation report on the labor-management committee. "These two officials were qualified in general evaluation techniques," says one of the principals involved, "but they were walking disasters when it came to construction know-how." A draft of this initial evaluative effort was critical of certain facets of the San Onofre committee arrangement but didn't find any major problems. However, after being circulated among and shot down by Bechtel, the State Building and Trades Council, and Cal/OSHA, the report was followed up late last year by a second Federal evaluation described by another source as "a fishing expedition." Gillotti termed reaction to the first report "very negative, but the problems were with attitudes and feelings, not content." As for the second report, he said that certain sections are being extracted from it "to be combined with other findings," yet unannounced.

Other places

With any successful new safety and health program, questions naturally arise as to what makes it work and whether it can be applied in other situations.

Concerning the labor-management committee at San Onofre, there was one word mentioned by all those we talked to as a key to success: cooperation. As Bechtel's Bob Atkinson puts it, "Both labor and management have to trust each other for the program to work. There can't be any suspicions about ulterior motives either way." Other necessary ingredients, according to Atkinson, include "a good safety program to begin with, one that has been set forth in writing, made known to employees, and backed up by a professional staff. It's also

important that the committee not be drawn into the collective bargaining process; that way, the possibility of any trade-offs relating to safety decisions is removed."

Cal/OSHA's Carter agreed that the San Onofre committee works well. "That's because both union and management representatives are highly motivated. Safety and health complaints are not mixed together with other grievances, and both parties have enhanced their hazards recognition abilities. It was a mutual evolution. Management and labor had a good working relationship to begin with, and the committee concept was built upon that." But when asked if the Bechtel plan can be applied elsewhere, Carter hedged. "It's too early to call it the wave of the future. Bechtel has lots of control at San Onofre," he explains. "For construction, the real test case will come on a site with lots of subcontractors. Success will depend on getting all of them to cooperate in the program."

There's nothing that fits that bill in the offing right now, but Carter told us he is currently working with the International Association of Machinists and a large manufacturing firm in northern California to try to establish a labor-management committee.

Sue Nelson Wrenn, director of OSHA's Office of Policy and Legislation under Eula Bingham and now associated with a Washington public affairs firm, cautions, "The Bechtel plan may not be directly translatable to a manufacturing firm with less recognizable hazards. If confined to safety, yes, it might work, but occupational health problems are another thing.

"Bechtel is a large, sophisticated company with a good safety record; their workforce is aware and organized," she continued. "If these factors are present, a labor-management committee can work, but unfortunately, they are not in place at every worksite, either in construction or manufacturing."

The future holds . . .

The first week of May found OSHA's Gabe Gillotti and scores of

other agency administrators at an executive retreat in Virginia, where labor-management committees were one of the topics on the agenda. Gillotti, in fact, was tapped to present a report and told us before he left for the meeting that he planned to cover the following facets: "Companies that have good safety programs — that is, an effective accident prevention program, in writing, that gets people involved in safety — should be recognized as possible candidates for labor-management committees. And if such committees do start up, OSHA should try to limit its intrusions to a minimum."

One interested member in the audience should be OSHA-chief Thorne Auchter. The week before the Virginia conclave, he had been Gillotti's guest in San Francisco where, in a speech before the International Union of Operating Engineers, he singled out the Bechtel plan for particular praise: "We must learn to do more with what we've got and do it well. This means that the front-line troops in the fight against job hazards are the people at the worksite — labor and management," he said. "We have to have more labor-management committees like the one here in California at a nuclear power plant construction site in San Onofre. These committees are taking the burden off State and Federal OSHA by making inspections themselves. No one knows more about workplace conditions and how to solve problems than those who are out there every single day."

Still, it's a long leap from one successful committee to such arrangements as a national policy, given the realities of labor-management relations in most of American business. As Sue Nelson Wrenn points out: "The common perception is that labor doesn't want such committees, because they are afraid of giving up the input and muscle of OSHA, and that management doesn't want them either, because they are afraid of worker input. They'd rather take their chances with random OSHA inspections. Of course, this isn't totally true across the board, but it does hold in many cases." Organized labor is also wary of OSHA's emerging image as

a cooperative regulator. That's seen as a contradiction in terms by labor spokesmen, who speculate about when the cooperation ends and the regulation begins.

OSHA's Gillotti is sensitive to these fears, but maintains that in the case of labor-management committees, "we can still regulate. An employee still has the right to come to

us with a complaint, if it hasn't been handled to his satisfaction by the committee. And we'll take care of it."

The bottom line, Gillotti concludes, "is that mutual trust has to be present between a responsible management and an informed workforce. If it's not there, nothing's going to work." ■

General Policy

AUCHTER WARNED SAN ONOFRE PLAN MAY NOT BE WORKABLE AT OTHER SITES

SAN FRANCISCO — (By a BNA Staff Correspondent) — The voluntary compliance, self inspection program at the San Onofre nuclear plant construction site is not readily transferable to other projects, one of that program's chief architects warned April 28.

Don Vial, director of the California Department of Industrial Relations, cautioned the Occupational Safety and Health Administration that the San Onofre program has unique features that underlie its success.

The San Onofre program is a partnership between employers, employees, and the state that includes strong employee rights protections and spells out employer responsibilities, Vial said (Current Report, Feb. 5, p. 1227). Its success hinges on the potential for strong enforcement by the state should the voluntary compliance system break down, he added.

Thorne G. Auchter, assistant labor secretary for OSHA, is studying the San Onofre program as a possible model for construction and general industry workplaces under OSHA's jurisdiction (Current Report, April 16, p. 1425).

Vial, in a speech to the International Union of Operating Engineers safety conference, warned that the San Onofre approach may not work elsewhere, particularly in open shop workplaces. The success of such a voluntary compliance experiment depends heavily on a strong collective bargaining history between labor and management, he explained.

Vial said his department has tried to build on its experience with San Onofre but has learned the concept cannot be applied everywhere. Also, such cooperative agreements between labor, management, and government agencies are no substitute for strong enforcement, he declared.

In other remarks, Vial pledged that California "will be an island of strong enforcement in the OSHA program." It will continue to pioneer prevention of job health problems through research, notification of hazards, and new standards when necessary, he said. He conceded that California's efforts in these areas and its strong enforcement posture may put it in conflict with federal job safety and health policies.

CAL/OSHA

State of California

Department of Industrial Relations
DIVISION OF OCCUPATIONAL SAFETY AND HEALTH
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NEWS RELEASE

DATE: 7-20-81

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For Immediate Release

NEW CAL/OSHA COOPERATIVE COMPLIANCE PROJECT BEGINS IN THE SOUTH BAY

One of the largest commercial construction projects in Santa Clara County, under the direction of Hensel Phelps Construction Co., has today also become the first site in Northern California to enter into a Cooperative Compliance Project with the Santa Clara Building and Construction Trades Council and the California Occupational Safety and Health Administration (CAL/OSHA).

Art Carter, Chief of CAL/OSHA's Division of Occupational Safety and Health announced implementation of the Hensel Phelps-CAL/OSHA Cooperative Compliance Project today and described its significance: "The Project puts the responsibility for day-to-day jobsite safety and health inspections fully on the shoulders of a joint labor/management committee. This committee will identify and eliminate unsafe conditions, make sure that all occupational safety and health standards are complied with, and resolve worker complaints of unsafe or unhealthful conditions. The program also provides for extensive training of construction workers in recognition of hazards to assist in their quick abatement through joint labor/management action."

"CAL/OSHA will not make routine scheduled inspections of the site - this is up to the committee - but will monitor the project to ensure that the committee meets its responsibilities, provide technical assistance when requested, and screen all worker complaints of unsafe conditions. CAL/OSHA will investigate complaints of serious safety or health hazards, but will refer all other complaints to the joint labor/management committee for resolution. On a construction site, where conditions change daily, the constant watchfulness and inspection by committee members who are at the site and involved in the construction activity should increase worker safety because the committee is in a position to take immediate and informed action to correct

(over)

potential safety or health problems."

"At the only other site in California where this kind of cooperative compliance project is underway - the Bechtel project at San Onofre - we have found that this approach to worksite safety and inspections has been very effective. By entering into this Cooperative Compliance Project with Hensel Phelps, CAL/OSHA doesn't abdicate its legal responsibility for enforcement of occupational safety and health standards. If the committee cannot resolve a problem, CAL/OSHA will. However, cooperative compliance projects such as this one enable a conscientious employer and labor at the site to work together to manage job safety and health and allow CAL/OSHA to better allocate its inspection personnel to other sites where there are problems," Carter said.

Carter continued: "I hope that this Cooperative Compliance Project will encourage other employers and unions who feel strongly about ensuring worker safety and health and who believe they can work together to do so to come forward and work with CAL/OSHA to set up similar projects."

John Fox, Hensel Phelps General Superintendent and Sam Pecota, Project Manager for Steiny and Co., Inc., a project subcontractor, are management representatives on the committee. Labor representatives are Vern Williamson of the Plumbers and Steamfitters Local 393, and Justin Henry of the Carpenters Local 316.

The Cooperative Compliance Project in San Jose is also significant because it is occurring in an important trade union area and Hensel Phelps is a major employer, ranking within the top fifty of the Fortune 500 companies.

The Division of Occupational Safety and Health is the division within the Department of Industrial Relations responsible for enforcing CAL/OSHA standards protecting worker safety and health. Don Vial is Director of the Department of Industrial Relations and Administrator of CAL/OSHA.

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May 24, 1982

THIRD Cal-OSHA COOPERATIVE COMPLIANCE PROJECT AGREEMENT

SAN FRANCISCO--A \$50 million condominium construction project in Emeryville is the third Cal-OSHA Cooperative Compliance project in the state. Cal-OSHA entered into the agreement with the prime contractors Lathrop/Kiewit, Rosendin Electric, Allied Fire Protection, South City Mechanical and Kalman Plumbing and the labor representatives: California Building and Construction Trades Council and the Alameda County Building and Construction Trades Council for the Pacific Park Plaza Project in Emeryville.

Art Carter, chief of Cal-OSHA's Division of Occupational Safety and Health, described the cooperative compliance project: "The project puts the responsibility for day-to-day job site safety and health inspections fully on the shoulders of a joint labor/management committee. This committee will identify and eliminate unsafe conditions, make sure that all occupational safety and health standards are complied with, and resolve worker complaints of unsafe or unhealthful conditions. The program also provides for extensive training of construction workers in recognition of hazards to assist in their quick abatement through joint labor/management action.

"Cal-OSHA will not make routine scheduled inspections of the site - it is up to the committee - but will monitor the project to ensure that the committee meets its responsibilities, provide technical assistance when requested, and screen all worker complaints of unsafe conditions. Cal-OSHA will investigate complaints of serious safety or health hazards, but will refer all other complaints to the joint labor/management committee for resolution. On a construction site, where conditions change daily, the constant watchfulness and inspection by committee members who are at the site and involved in the construction activity should increase worker safety because the committee is in a position to take immediate and informed action to correct potential safety and health problems."

According to Carter: "This third self-inspection agreement will continue Cal-OSHA's pioneering efforts to obtain protection of workers through self-inspection programs with the focus on joint labor/management action to solve safety and health complaints. Cal-OSHA is going to continue to provide vigorous enforcement should there be a failing of the committee to resolve these problems. However, we see this as one way among several to ensure the

protection of workers: tough enforcement; consultation; and self-inspection programs such as this one.

"There are two other cooperative compliance projects currently underway: the Bechtel project at San Onofre and the Hensel Phelps project in San Jose, and we have found that this approach to work site safety and inspections has been very effective. By entering into these cooperative compliance agreements with labor and management, Cal-OSHA doesn't abdicate its legal responsibility for enforcement of occupational safety and health standards. If the committee cannot resolve a problem, Cal-OSHA will. However, cooperative compliance projects such as these enable conscientious employers and labor at the sites to work together to manage job safety and health and allow Cal-OSHA to better allocate its inspection personnel to other sites where there are problems."

Carter wants other employers and unions who feel strongly about ensuring worker safety and health and who believe they can work together to approach Cal-OSHA to set up similar projects.

California**EMPLOYER-UNION COMPLIANCE AGREEMENT
NO BAR TO INSPECTIONS, LAW JUDGE SAYS**

SAN FRANCISCO — (By a BNA Staff Correspondent) — An agreement between an employer and a labor union for voluntary workplace safety inspections does not bar the state Division of Occupational Safety and Health (DOSH) from making compliance inspections, an administrative law judge of the California Occupational Safety and Health Appeals Board ruled.

It is the division's prerogative to decide whether to exempt an employer from inspections if a voluntary program is in effect, according to Judge Gerald Winerman.

The case involved *General Motors Assembly Division, Van Nuys* (Docket No. 1550-81), which was cited in November 1981 for 10 alleged nonserious violations. In contesting one of the items from the citation, General Motors contended that it should not have been inspected because it has an agreement with a union representing its employees for voluntary safety inspections. DOSH has formal agreements with a handful of employers and unions which conditionally substitute self-inspections for DOSH enforcement.

Winerman denied General Motors' motion to dismiss the citation because there was no actual voluntary compliance agreement between DOSH, the employer, and the union.

"The employer, after being cited by the division, cannot by its own bootstraps unilaterally rely on an agreement with a union at its worksite to bypass a state agency, such as the division, which is constituted by the state legislature to enforce worker safety at all places of employment in the state," he explained.

General Motors maintained that federal and state regulations allow for voluntary compliance agreements. Winerman conceded that DOSH has instituted voluntary compliance agreements at a few workplaces, but he noted that "it is the division's prerogative to decide whether it wishes to allow a specific employer to take part in a voluntary program." The General Motors plant at Van Nuys has not been so designated by the division, he found, affirming eight violations admitted by the company.

CAL/OSHA

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NEWS RELEASE

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For Immediate Release

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POSITIVE RESULTS REPORTED ON SIX CAL/OSHA COOPERATIVE SELF-INSPECTION PROJECTS

A CAL/OSHA program in which joint labor/management committees conduct the routine safety and health inspections at local jobsites has resulted in significant reductions - up to 80 percent - in the incidents of worker injury and illness, according to a report issued today.

"To date there have not been any major accidents or deaths at any of the six projects completed under our Cooperative Self-Inspection Program (CSIP)," said Division of Occupational Safety and Health Chief Dave Valoff.

"One project has not had any accidents, and the accident incidence rates are substantially lower at each CSIP project from both the 1981 California incidence rate for comparable construction projects as well as from the incidence rate each company has for comparable projects," he said.

The Cooperative Self-Inspection Program conditionally exempts participating companies from routine enforcement inspections of worksites by CAL/OSHA compliance inspectors. A joint/labor management safety and health committee performs these inspections and resolves most complaints. CAL/OSHA enters the worksite only to monitor the self-inspection activities, to investigate complaints alleging serious or imminent hazard, or to investigate a serious accident, Valoff explained.

California was the first state in the nation to initiate, in 1979, this new approach to improving job safety. Since then, six CSIP, all in the construction industry and all involving union labor have been initiated. The projects include a nuclear power plant, two industrial gas/oil processing plants, two high technology buildings, and a highrise condominium. The projects are large from a cost standpoint -

\$35 million to \$3 billion; involve anywhere from 200 to 2600 workers; and have construction schedules ranging from 9 months to 8 years. All projects that have been completed have been completed on time, on schedule, and under or on budget.

According to the report, project managers attribute the improved safety performance at the CSIP sites to increased awareness by employers and workers of safety hazards, better communications between these two groups, and the fact that employees feel that for the first time they can directly influence safety on the job through their representation on the joint labor/management safety and health committee and because of management's prompt attention to correcting safety and health problems.

Dave Valoff stated in releasing the report, "Governor Deukmejian's policy objectives include fostering a cooperative alliance between labor and management and increasing economic incentives. We believe, based on our evaluation of Cooperative Self-Inspection Programs undertaken so far, that the CSIP accomplishes these objectives. The companies participating in the CSIPs show greatly reduced incidents of worker injury and illness, have substantially reduced worker compensation costs due to the low frequency and severity of accidents, and are achieving substantial economic rewards in terms of major dividends on workers' compensation premiums returning hundreds of thousands of dollars annually due to the low accident rates. One of the companies, which is self-insured, reported saving \$2.4 million through accident prevention under the CSIP. The other companies have earned a reduction in their experience modifiers and a corresponding reduction in their insurance premiums.

"As well as these economic benefits, in more important human terms this means that many of the accidents and worker injuries that might normally have occurred, did not happen."

Valoff continued, "With the CSIP, CAL/OSHA adds another dimension to its accident and illness prevention activities. We believe that if we focus attention on education

and training, counseling, and motivating employers and workers to think and act safely, we may be more successful at preventing accidents, injuries, and illnesses. Our enforcement capability and efforts will not be diminished, however, I believe that it makes more sense and is a more positive active approach to work with employers and workers to prevent accidents from ever happening than to have to react to investigate - after the fact - accidents which have occurred."

Ron Rinaldi, Interim Director of the Department of Industrial Relations, stated: "We are gratified at the results we are seeing from all the voluntary compliance efforts undertaken by CAL/OSHA and we are enthusiastic at expanding these programs in many industries."

Under the direction of Division of Occupational Safety and Health Deputy Chief, Victor Muñiz, a task force is currently working to develop a comprehensive set of Cooperative Self-Inspection Programs which could be applied to a variety of work settings including general industry. Muñiz stated: "CAL/OSHA hopes to have these programs available by early 1984. Companies which are interested in being considered for participation in a Cooperative Self-Inspection Program are encouraged to write to the Division of Occupational Safety and Health, 525 Golden Gate Ave. - 3rd Floor, San Francisco, CA 94102."

The California Occupational Safety and Health program (CAL/OSHA) is administered by the Department of Industrial Relations. The Division of Occupational Safety and Health is the division within the Department responsible for enforcing CAL/OSHA standards protecting worker safety and health.

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California

**SMALL EMPLOYER CONSULTATION PROGRAM
GIVEN APPROVAL, OSHA SAYS IN NOTICE**

A California program which grants one-year exemptions from general schedule inspections to companies that request full scale on-site consultation visits was approved by the Occupational Safety and Health Administration Aug. 2 (48 FR 34950).

The program, which is "designed to reward the efforts of small businesses whose voluntary compliance with state occupational safety and health standards results from a wall-to-wall inspection visit," was initiated in March 1981. A federal OSHA project "patterned to a large extent" on the California program was launched on a trial basis in seven Southern states last year, and was extended for another six months in July (Current Report, July 14, p. 158).

To qualify for an exemption under the California program, an employer with 50 or fewer employees must (1) request and receive a wall-to-wall consultation visit by the Cal/OSHA Consultation Service within the 12 months preceding any attempt by the state to conduct a routine inspection, (2) correct, or be in the process of correcting, any hazards identified during the consultation, and (3) have an accident prevention program that, at a minimum, includes a training program for employees and scheduled periodic inspections.

To ensure that health coverage is adequate, the program also calls for a consultant with health training to be used for any consultation visit where health hazards are anticipated, the OSHA notice stated.

Public comment on the California project was requested by OSHA last August (Current Report, Aug. 25, 1982, p. 270). According to the notice of approval, only one comment, submitted by the United Steelworkers of America, was received in response.

The Steelworkers expressed objection to the program, saying that no employer should be exempt from a general schedule inspection, particularly if the employer is in a high hazard industry. The union suggested that, "at the very least," participating employers be returned to the general schedule list at the end of the 12-month exemption period.

Further, the union maintained that OSHA should not grant approval to the program without first evaluating its performance, and it objected to the fact that follow-up visits are not required in all cases.

Accident Decline Seen

OSHA remarked that the union's concerns are "unwarranted." More than 100 companies are participating in the California program, and a 12-month re-evaluation of the project by Cal/OSHA "noted a significant decline in workplace accidents for these employers," the agency reported.

Among these companies, the number of illness and injury cases resulting in lost workdays declined 49 percent, OSHA stated. The number of cases not requiring time away from work similarly dropped 66 percent.

In response to the suggestion that companies be returned to the general schedule list after the exemption period, the agency noted that the program already includes this provision. However, a company may elect to participate another 12 months by requesting and receiving another on-site consultation visit, it said.

Follow-up visits are conducted by the state Consultation Service when the agency deems such visits "warranted," the notice continued. This is particularly true, it said, where written assurances of abatement are not received.

OSHA affirmed its support for the program, saying it provides a "reasoned and responsible approach" by the state, and that it also improves the state's "utilization of scarce enforcement resources."

A copy of the approved state plan supplement concerning the exemption program is available for inspection at the Directorate of Federal Compliance and State Programs, OSHA, Room N-3700, 200 Constitution Ave., N.W., Washington, D.C. 20210. The approval of the program will be reflected in a future Reference File supplement.

CAL/OSHA CONSULTATION SERVICE EXPANDS SMALL EMPLOYER VOLUNTARY COMPLIANCE PROGRAM

According to CAL/OSHA Consultation Service Chief Emmett E. Jones, "When the Small Employer Voluntary Compliance Program was initiated in 1981, it was designed to reward the efforts of small businesses, those with 50 or fewer employees, which wanted to voluntarily comply with state occupational safety and health standards. The program in which 125 employers statewide have participated has proved to be very successful, and we think it's time to extend this opportunity to larger businesses. Now any employer with 250 or fewer employees who has a fixed worksite and meets the criteria below would qualify to participate in the Small Employer Voluntary Compliance Program:

1. the employer has requested and received a wall-to-wall consultation by the CAL/OSHA Consultation Service within the past 12 months.
2. the employer has corrected, or is in the process of correcting, any safety or health hazards which a consultant pointed out to the employer as a result of the wall-to-wall consultation.
3. the employer has an effective accident prevention program or with assistance from the Consultation Service will establish such a program.
4. if the employer has more than 50 employees, the employer must have an operational joint labor/management safety committee or with assistance of the Consultation Service will establish such a committee."

All CAL/OSHA Consultation Service assistance is free, and provided only in response to formal requests from employers.

Businesses participating in the program will not be subject to routine inspections by the Division of Occupational Safety and Health. However, the Division will, as required by law, conduct an inspection if: an employee complaint is filed with the Division; an accident occurs in the workplace resulting in an employee's death or serious injury to five or more employees; or the Division is required to make a follow-up inspection to assure that any previously cited serious violation of occupational safety and health standards has been corrected.

Jones said, "This program should interest employers because the data we have from the two years it has been operating indicates that CAL/OSHA's involvement with small businesses in voluntary compliance makes a difference in both reducing the number of lost workday cases and injuries without lost work time, and in strengthening and improving worksite accident and illness prevention programs. For example, year end evaluations show an average 60 percent reduction in lost workday injuries, a 50 percent reduction in no lost workday injuries and illnesses, and an 85 percent improvement in employer/employee safety consciousness. These changes directly translate into dollars saved for the businesses involved in the program.

"We think the Small Employer Voluntary Compliance Program is a prime example of a cooperative venture between business and government which produces measureable results to the benefit of workers, employers, and the economy and society as a whole."

Ron Rinaldi, Interim Director of the Department of Industrial Relations pointed out that the Consultation Service's Small Employer Voluntary Compliance Program is only one of the efforts CAL/OSHA is involved in with the business and labor communities to increase and expand voluntary compliance. Rinaldi stated, "We are enthusiastic about the results we are finding within all of the programs, and we are currently working to develop a comprehensive voluntary compliance approach which can possibly be implemented in many industries."

For more information about the CAL/OSHA Consultation Service's Small Employer Voluntary Compliance Program, contact any of the CAL/OSHA Consultation Service offices listed on page 8. □

Cal/OSHA Move to Exempt Most Firms From Inspections Hit

Plans just announced by Cal/OSHA to extend the exemption of firms with 50 or fewer workers from unannounced safety inspections to all firms with 250 or fewer workers were sharply attacked by the California AFL-CIO this week as "a move that further weakens the standards that have been enacted to protect the health and safety of all California workers."

"Such an extension will mean that about 99 percent of all California worksites and 64 percent of all California workers could be affected by these so-called voluntary compliance agreements that are essentially designed to relieve em-

ployers of any fear of unannounced inspections," said John F. Henning, executive secretary-treasurer of the California Labor Federation, AFL-CIO.

"The safety laws were enacted to protect workers—not employers—and the very idea of offering an exemption from certain aspects of our job safety laws to employers who sign an agreement saying that they will obey the law is clearly of questionable legality and represents a move that further weakens the standards that have been enacted to protect the health and safety of all California workers," he said.

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Section III – OTHER STATE PROGRAMS

Voluntary compliance programs and legally mandated joint committees have been implemented in other states. Washington state has one of the oldest committee programs in the nation. In 1978 a law was passed which requires employers to establish health and safety committees in the workplace, involving both management and employee representatives. A copy of the law is included in this section.

Also included here is a similar law from Oregon, which requires the establishment of joint committees by certain employers who exceed an incidence ceiling for lost work-days due to injury or illness.

An experimental program involving consultation with Federal OSHA in the place of inspection is currently being conducted in seven southern states. The failure or success of this pilot program could help to determine the course of voluntary compliance in other states.

In Ontario, Canada, joint health and safety committees are required in the majority of workplaces employing 20 or more people. Included here is a section of the bill which established that requirement.

OREGON REVISED STATUTES

LABOR AND INDUSTRIAL RELATIONS**PLACES OF EMPLOYMENT; SAFETY, HEALTH REGULATIONS****WORKPLACE SAFETY
COMMITTEES**

654.176 Authority to require employer to establish safety committees. In carrying out the provisions of ORS 654.001 to 654.295, the director may require any public or private employer of 10 or more employes to establish and administer a safety committee if the employer has a lost workday cases incidence rate greater than the rate the director determines is consistent with reasonable workplace health and safety for employes of that particular occupational classification. In determining such a rate, the director shall utilize the most recent department statistical survey regarding Oregon occupational injuries and illnesses. [1981 c.488 §2]

654.180 [Repealed by 1969 c.534 §2]

654.182 Rules for ORS 654.176; contents. In carrying out ORS 654.176, the director shall promulgate rules which include, but are not limited to provisions:

(1) Prescribing the membership of the committees to insure equal numbers of employes and employer representatives and specifying the frequency of meetings.

(2) Requiring employers to make adequate written records of each meeting and to file and maintain the records subject to inspection by the director.

(3) Requiring employers to compensate employe representatives on safety committees at the regular hourly wage while the employes are attending safety committee meetings.

(4) Prescribing the duties and functions of safety committees, which include, but are not limited to:

(a) Establishing procedures for workplace safety inspections by the committee.

(b) Establishing procedures for investigating all safety incidents, accidents, illnesses and deaths.

(c) Evaluating accident and illness prevention programs. [1981 c.488 §3]

654.187 Exceptions to application of ORS 654.176 to 654.192. Nothing in ORS 654.176 to 654.192 applies to:

(1) An employer operating under a collective bargaining agreement that contains provisions regulating the formation and operation of a safety committee.

(2) An employer that is otherwise required by or pursuant to law to have a safety committee. [1981 c.488 §4]

OREGON ADMINISTRATIVE RULES
WORKERS' COMPENSATION DEPARTMENT

CHAPTER 437

DIVISION 40 - GENERAL PROVISIONS

Hist: WCB NO. 1-1967, f. 1/12/67, ef. 1/15/67. WCB Admin. Order, Safety 11-1976, f. 5/5/76, ef. 5/5/76. WCB Admin. Order, Safety 15-1976, f. 7/6/76, ef. 8/1/76.

Extraordinary Hazards

437-40-035 When conditions arise that cause unusual or extraordinary hazards to workers, additional means and precautions shall be taken to protect workers or to control hazardous exposure. If the operation cannot be made reasonably safe, regular work shall be discontinued while such abnormal conditions exist, or until adequate safety of workers is ensured.

(Formerly 1-2-14)

Hist: WCB No. 1-1967, f. 1/12/67, ef. 1/15/67.

Inspections

437-40-040 (1) All places of employment shall be inspected by a qualified person or persons as often as the type of operation or the character of the equipment requires. Defective equipment or unsafe conditions found by these inspections shall be replaced or repaired or remedied promptly.

(Formerly 1-2-15)

(2) Wherever required in this safety code, a written and dated report, signed by the person or persons making the inspection, shall be kept.

(Formerly 1-2-16)

(Rule 1-2-17 is superseded by the following Rules 437-40-045 through 047 on Workplace Safety Committees.)

Hist: WCB No. 1-1967, f. 1/12/67, ef. 1/15/67. WCD Admin. Order, Safety 10-1982, f. 7/30/82, ef. 7/30/82.

Safety Committees

437-40-045 (1) A safety committee shall be established and administered by each public or private employer of:

(a) Ten (10) or more employes; and

(b) Who has a Lost Workday Case Incidence Rate (LWDCIR) in the previous calendar year that exceeds 5.0; and

(c) The LWDCIR is greater than three-quarters of the average LWDCIR for the employer's Standard Industrial Classification (SIC) in the most recent Workers' Compensation Department's Occupational Injury and Illness Survey. (Refer to Appendix A for instructions on computing Lost Workday Cases Incidence Rates.)

Note : These are rules which were implemented as a result of the original Oregon law.

(2) Rule 437-40-045(1) applies to each location where an employer is required to maintain an OSHA form No. 200 Log.

(3) Existing safety programs shall be reviewed by the Accident Prevention Division to determine if they comply with the intent of ORS 654.176 through 654.192 and provide for equally effective safety committee activity.

(4) EXEMPTION: Rule 437-40-045(1) does not apply to an employer operating under a collective bargaining agreement that contains provisions regulating the formation and operation of a safety committee or an employer that is otherwise required by or pursuant to law to have a safety committee.

Hist: WCD Admin. Order, Safety 10-1982, f. 7/30/82,
ef. 11/1/82.

Membership of Safety Committees

437-40-046 (1) The safety committees required by Rule 437-40-045 shall:

(a) Be composed of an equal number of employer and employee representatives;

(b) Consist of no fewer than:

(A) Two members for firms with twenty or less employees, or

(B) Four members for firms with more than twenty employees, and

(C) The members shall be familiar with types of work at the operation; and

(c) Have a chairperson designated by the employer.

(2) Employee representatives attending safety committee meetings required by Rule 437-40-045 shall be compensated by the employer at the regular hourly wage.

Hist: WCD Admin. Order, Safety 10-1982, f. 7/30/82,
ef. 11/1/82.

Functions and Duties of Safety Committees:

437-40-047 (1) Functions of safety committees:

(a) Hold regular meetings at least once a month except months when quarterly workplace safety inspections are made. This does not exclude other months from safety committee meetings if more frequent safety inspections are conducted.

(b) Make written records of each meeting which the employer shall review and maintain for three years for inspection by the Director.

(c) Copies of meeting records shall be posted and sent to committee members.

(d) The safety committee shall assist in creating a hazard-free work environment by:

(A) Recommending to the employer how to eliminate hazards in the workplace and promote employe adherence to safe work practices; and

(B) Using lines of communications to promote cooperative attitudes between all persons involved in the operations of the workplace.

(2) Duties. The duties of the safety committees required under Rule 437-40-045 shall include but not be limited to:

(a) Establishing procedures for minimum quarterly workplace safety inspections by a safety committee inspection team to locate and identify safety and health hazards. The safety inspection team shall include employer and employe representatives and shall document the location and identity of the hazards and make recommendations as to how and when the hazards will be corrected;

(b) Establishing procedures for investigating all significant safety-related incidents including injury accidents, illnesses and deaths for the purpose of recommending corrective action necessary to prevent similar events from recurring;

(c) Evaluating employer policies which may affect safety and health in the workplace and make recommendations for changes to existing policies or adoption of new policies;

(d) Evaluating all the accident and illness prevention programs brought to the committee's attention and making recommendations necessary to make the programs more applicable to the workplace;

(e) Establishing a system whereby the safety committee can obtain information directly from all persons involved in the operations of the workplace that would help in creating a hazard-free work environment. The information obtained shall be reviewed at the next safety committee meeting;

(f) Establishing procedures for the review of all safety and health inspection reports made by the committee and make necessary recommendations;

(g) Establishing procedures for the review of corrective action taken on the committee's recommendations and determining the reasons for no corrective action; and

(h) Making all reports, evaluations and recommendations of the safety committee a part of the minutes of the safety committee meeting.

Hist: WCD Admin. Order, Safety 10-1982, f. 7/30/82, ef. 11/1/82.

Investigations of Injuries

437-40-050 (1) Each employer shall investigate or cause to be investigated every lost time injury that workers suffer in connection with their employment to determine the means that should be taken to prevent recurrence. The employer shall promptly install any safeguard or take any corrective measure indicated or found advisable.

(Formerly 1-2-18)

(2) At the request of authorized Department representatives, it shall be the duty of employers, their superintendents, supervisors and employes to furnish all pertinent evidence and names of known witnesses to an accident and to give general assistance in producing complete information which might be used in preventing a recurrence of such accident.

At the request of the Department, persons having direct authority shall preserve and mark for identification, materials, tools or equipment necessary to the proper investigation of an accident.

(Formerly 1-2-19)

(3) Any supervisors or persons in charge of work are held to be the agents of the employer in the discharge of their authorized duties, and are at all times responsible for:

(a) The execution in a safe manner of the work under their supervision; and

(b) The safe conduct of their crew while under their supervision; and

(c) The safety of all workers under their supervision.
(Formerly 1-2-20)

Hist: WCB No. 1-1967, f. 1/12/67, ef. 1/15/67. WCD Admin. Order, Safety 10-1982, f. 7/30/82, ef. 7/30/82.

Excerpts from : Survey of Occupational and Legal Issues Related to Support of Workplace Health and Safety Committees / Bertinuson, Davis, Drapkin, and Weinstein LOHP, September 5, 1980

I. Introduction

Since passage of the OSHAct in 1970, labor-management health and safety committees have developed throughout the U.S. in both organized and unorganized workplaces. In part, the structure and organization of these committees have been defined and continue to be defined through collective bargaining. One state, Washington, also has legal mandates for such committees.

The purpose of this survey is to review the experiences of the Washington State Industrial Safety and Health Administration (WISHA) related to health and safety committees, and to recommend minimal criteria to insure that such joint committees, where mandated by law, would be an effective "voluntary compliance" program component.

II. Background

A. Prior to OSHA

Before passage of the OSHAct in 1970, Washington state had a requirement that each workplace employing 10 or more persons have a joint management/labor health and safety committee (see attachment #1 for a copy of WAC-296-25-080, 1960). Such provisions had been enacted as early as 1945.

According to the 1960 legislation, committees were to be comprised of no more than five each of employee-selected and management representatives and were to meet ("preferably during working hours") for no more than an hour once a month to discuss the results of accident investigations, unsafe conditions found by routine committee inspections, and any safety matters brought to management's attention during the previous month, including violations of State Safety Standards. Mandated duties of the committee were to: conduct routine or monthly inspections of the worksite and submit a report to management; conduct accident investigations and analyze their causes and recommend preventive measures;

and promote the collection and dissemination of educational information on job hazards. Management was to submit a copy of the committee meeting minutes to the Washington State Department of Labor and Industries with its monthly Education Report. In case of disputes over compliance with a Washington State Safety Order, the Department had the authority to determine the solution in accordance with existing Safety Orders. In addition, the Department of Labor and Industries was to pay each workplace a monthly routine visit (conduct an inspection).

From all narrative accounts by government personnel involved with the Department prior to 1970, AFL-CIO officials, and management representatives of both organized and unorganized workplaces, this system worked fairly well. Although the Department did not have the authority to cite in case of violation of committee structure or for lack of a committee, the majority of workplaces did establish such committees and did regularly submit their minutes to the Department. Even in unorganized electronics firms, committees were able to obtain major expenditures for such control measures as new ventilation systems. Government officials, as well as management representatives, attribute the success of the pre-OSHA program in part to: a long history in Washington state of management/labor cooperation; the consistent follow-up by the Department in the form of monthly visits; and the documentation of committee activities by the Employer's monthly Education Report housed at the Department. (Unfortunately, these monthly reports have been purged from the Department's files since enactment of WISHA).

B. Post-OSHA

In June, 1973 Washington state established its own state-OSHA program. Both labor and Washington State Department of Labor and Industries officials agree that the pre-OSHA system had worked fairly well and that for Washington state

OSHA and later WISHA actually meant a disintegration in the level of worker protections previously guaranteed by the state's "voluntary compliance" measures. Further evidence of this disintegration was the number of CASPAs being filed shortly after 1973 and the establishment of the AFL-CIO WISHA Monitoring Committee to identify problems with WISHA compliance efforts and propose solutions in an attempt to reduce the numbers of CASPA complaints.

With the establishment of WISHA in 1973 all that remained of the pre-OSHA health and safety committee legislation was a mandate for a safety program (WAC-296-24-040) requiring employers to investigate accidents and provide training for employees exposed to job hazards. Violation of this provision was citable, and between 1973 and 1977 WISHA cited some 536 employers for WAC-296-24-040 violations. Most were cited as "de minimus" violations. Although an employee could make a formal complaint of violation of this provision, most of the 536 citations occurred as a result of routine inspections or from complaints related to other Safety Order violations.

In September, 1978 an Administrative Order from James Sullivan, Assistant Director of the Washington State Department of Labor and Industries and head of WISHA revised WAC-296-24-040 and added an additional provision for health and safety committees, WAC-296-24-045 (hereafter to be referred to as -040 and -045). As a reason for this change Sullivan suggested that: a) labor wanted legally mandated joint management/labor health and safety committees reinstated because incidences of injuries and illnesses were increasing from pre-OSHA rates and many of the previously established committees were becoming less active, b) there was an increasing trend by management to eliminate labor participation in health and safety committees, and c) enough state administrators were left from the pre-1973 program to realize the pre-OSHA system had handled workplace health and safety problems better. (See attachment #2 for a copy of 296-24-040 and -045).

In addition, the political environment was such that the legislature was not violently opposed to the provision, especially since Washington state industrial insurance regulations already required employers to be either insured by the state or self-insured; those companies who were self-insured were certified by the Assistant Director of the Department of Labor and Industries and head of WISHA, James Sullivan, based on criteria as put forth by -040 and -045. (For more details on criteria for Washington's industrial insurance program, see Part II below.)

Although employers opposed the code changes, they didn't block the measure's enactment. Nor has any employer attempted to appeal -040 or -045 or instigate any other court action since they became law in 1978.

The new adopted code -045 required that: employers select their members of joint management/labor health and safety committees; there be at least as many labor as management committee members; meetings be called by committees and minutes recorded; minutes be maintained at the worksite and available upon request to employees, employee representatives, and non-Compliance WISHA officials (usually from the Education Department); and the committee chairperson and recording secretary be chosen by the committee.

Both -040 and -045 are citable if employers fail to comply with the provisions, and employees can make complaints of violations of -040 and -045 to Compliance. However, what is mostly likely to occur is that a compliance officer determining in the course of a workplace inspection that an employer is not in compliance with -040 or -045 will suggest the employer arrange a consultation meeting with the Education Department to discuss setting up an Accident Prevention Program and/or health and safety committee.

WISHA REQUIRED MINIMUM LABOR-MANAGEMENT SAFETY PROGRAM

WAC 296-24-040 Accident prevention programs. Each employer shall develop a formal accident-prevention program, tailored to the needs of the particular plant or operation and to the type of hazards involved. The division may be contacted for assistance in developing appropriate programs.

(1) The following are the minimal program elements for all employers:

(a) A safety orientation program describing the employer's safety program and including:

(i) How and when to report injuries, including instruction as to the location of first-aid facilities.

(ii) How to report unsafe conditions and practices.

(iii) The use and care of required personal protective equipment.

(iv) The proper actions to take in event of emergencies including the routes of exiting from areas during emergencies.

(v) Identification of the hazardous gases, chemicals or materials involved along with the instructions on the safe use and emergency action following accidental exposure.

(vi) A description of the employer's total safety program.

(vii) An on-the-job review of the practices necessary to perform the initial job assignments in a safe manner.

(b) A designated safety and health committee consisting of management and employee representatives with the employee representatives being elected or appointed by fellow employees.

(2) Each accident-prevention program shall be outlined in written format. [Statutory Authority: RCW 49.17.040, 49.17.050, 49.17.240 and chapters 42.30 and 43.22 RCW. 78-12-017 (Order 78-22), § 296-24-040, filed 11/13/78; Order 74-27, § 296-24-040, filed 5/7/74; Order 73-5, § 296-24-040, filed 5/9/73 and Order 73-4, § 296-24-040, filed 5/7/73.]

WAC 296-24-045 Safety and health committee plan. (1) All employers shall have a designated safety committee composed of employer and employee elected members.

(a) The terms of employee-elected members shall be a maximum of one year. Should a vacancy occur on the

committee, a new member shall be elected prior to the next scheduled meeting.

(b) The number of employer members shall not exceed the number of employee-elected members.

(2) The safety committee shall have an elected chairperson.

(3) The safety committee shall be responsible for determining the frequency of committee meetings.

NOTE: If the committee vote on the frequency of safety meetings is stalemated, the Division's Regional Safety Educational Representative may be consulted for recommendations.

(a) The committee shall be responsible for determining the date, hour and location of the meeting.

(b) The length of each meeting shall not exceed one hour except by majority vote of the committee.

(4) Minutes of each committee meeting shall be prepared and filed for a period of at least one year and shall be made available for review by noncompliance personnel, Division of Industrial Safety and Health.

(5) Safety and Health Committee meetings shall address the following:

(a) A review of the safety and health inspection reports to assist in correction of identified unsafe conditions or practices.

(b) An evaluation of the accident investigations conducted since the last meeting to determine if the cause of the unsafe acts or unsafe conditions involved was properly identified and corrected.

(c) An evaluation of the accident and illness prevention program with a discussion of recommendations for improvement where indicated.

(d) The attendance shall be documented.

(e) The subject(s) discussed shall be documented. [Statutory Authority: RCW 49.17.040, 49.17.050, 49.17.240 and chapters 42.30 and 43.22 RCW. 78-12-017 (Order 78-22), § 296-24-045, filed 11/13/78.]

General Policy

OSHA'S ON-SITE CONSULTATION SERVICE EXPANDED IN NEW EXPERIMENTAL PROGRAM

In another effort to augment its limited inspection staff, the Occupational Safety and Health Administration announced July 9 that it will begin an experimental program in seven Southern and Southwestern states designed to encourage employer use of its consultation service in exchange for a one-year exemption from general schedule inspections.

The experimental program will be conducted in Alabama, Florida, Georgia, Mississippi, Arkansas, Oklahoma, and Texas. OSHA said it will be in effect for a six-month period from July 12 to Jan. 12. The agency estimated that there are some 835,000 workplaces employing about 12.7 million people in these seven states.

OSHA Administrator Thorne G. Auchter said that the one-year exemption from the agency's general schedule inspection will be granted to companies that agree to undergo a comprehensive consultation visit covering both safety and health, correct all serious hazards identified, and establish and/or maintain an effective safety and health program.

"The program will eliminate inspections where federally-funded consultants have already assured correction of serious hazards, thus freeing OSHA compliance staff to visit more hazardous worksites," Auchter stated. In the seven states participating in this program, there are approximately 50 consultants working from state agencies, an OSHA spokesman told BNA July 9.

Limited Participation

While participating employers will be exempt from general schedule inspections, the agency emphasized that it will continue to respond to worker complaints and conduct inspections of serious accidents. The program will include only fixed establishments for the present, although similar programs may be considered in the future for construction and longshoring operations, OSHA said.

In addition to the survey to identify the hazards and establish abatement dates, a consultant also will encourage employers to develop and use internal complaint procedures, will review an employer's safety and health program, and, if the program is not effective, will assist in making it so, the notice stated.

At the end of the six-month period, OSHA said, the results will be evaluated and a decision will be made whether to extend the program to other states and jurisdictions under federal enforcement. According to the agency, states with their own occupational safety and health plans eventually may adopt similar programs.

The agency said it currently spends more than \$20 million annually on consultation, funding 90 percent of the cost in states and territories where the program is run by state governments or universities, 50 percent in eight other jurisdictions with comprehensive state plans, and 100 percent in four other jurisdictions where private contractors carry out the program.

Details and forms for applying and participating in the program can be obtained from the following two sources: OSHA Dallas Regional Office, U.S. Department of Labor, 555 Griffin Square Building, Room 602, Dallas, Texas 75202; telephone (214) 767-4731; or OSHA Atlanta Regional Office, U.S. Department of Labor, 1375 Peachtree Street, N.E., Suite 587, Atlanta, Ga. 30367; telephone (404) 881-3575.

OSHA's Experimental Consultation Program-How's it faring?

by Frank W. Lancianese

THROUGHOUT his term as Assistant Secretary of Labor-OSHA, Thorne Auchter has stressed the importance of ending the adversarial relationship between the agency and the business sector. In hearings conducted jointly by the Senate Labor and Investigations and General Oversight subcommittees in 1981, Auchter testified: "OSHA's goals can best be accomplished through cooperation by government with management and labor. . . . In other words, we see OSHA as more than a 'policeman'; we see it as a partner lending assistance to those demonstrating a desire to improve workplace conditions. . . ."

In line with this objective, the days of heavy emphasis on enforcement have been replaced by a heightened appreciation of indus-



Joseph Collier, director of OSHA's Office of Consultation Programs.

try's compliance difficulties, a system of rewarding those job sites with good safety records, and stepped-up consultative efforts by the agency. Concerning the latter, the OSHA-chief noted in a recent interview with *Occupational Hazards* that "this is business' opportunity to show that they can do it themselves. They have the means today to participate with their government, which we've given them with an open-door policy."

OSHA's experimental consultation program, established last July, is perhaps the clearest evidence of the agency's desire to see this open-door policy implemented. Under the program, being conducted in seven southern States, OSHA is offering a one-year exemption from general schedule safety and health inspections for those establishments which request its consultation services.

To find out the program's components, its goals, its results to-date, and whether it will be extended to other States in the future, *Occupational Hazards* interviewed Joseph Collier, director of OSHA's Office of Consultation Programs.

Program specifics

According to Collier, the experimental program covers about 835,000 workplaces employing an estimated 12.7 million people in Alabama, Florida, Georgia, Mississippi, Arkansas, Oklahoma, and Texas.

To receive the one-year exemption offered under the program, employers must complete the following steps:

- Request and undergo a com-

prehensive OSHA consultation inspection covering both safety and health.

- Post in the worksite an intention to participate in the program.

- Correct all serious hazards identified by the consultant.

- Establish and/or maintain an effective safety and health program.

- Post in the worksite a notice indicating all serious hazards discovered in the inspection.

- Post in the worksite a certificate of exemption obtained from OSHA.

Collier noted that the program is available only to fixed establishments, with first priority going to small, high-hazard worksites. Construction, longshoring, and logging operations are not eligible: "The safety and health problems accompanying mobile worksites change constantly. We would need to develop a unique consultation program to effectively help them. Although it doesn't exist yet, this type of program is currently being considered and may become available in the future," Collier said.

Collier emphasized that, although a participating employer may be exempt from general schedule inspections, OSHA continues to respond to all worker complaints and conducts inspections of any serious accidents.

The program was originally scheduled to stay in effect for a six-month period and expire this past January. However, on January 18, OSHA announced that it would be extended for up to an additional six months, during which time the

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OSHA's Thorne Auchter: "The preliminary indications from the experiment have been very encouraging."



AFL-CIO's Sheldon Samuels: "The program is a diversion of OSHA's resources and attention."

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agency would complete an evaluation and decide whether to extend the program to other States.

Objectives, results

A major reason for the consultation program, according to OSHA-boss Auchter, is to prevent the agency from duplicating its enforcement and consultative efforts. In announcing the program last summer, Auchter stated: "The program will eliminate inspections where Federally-funded consultants have already assured correction of serious hazards, thus freeing OSHA compliance staff to visit more hazardous worksites."

Collier set forth some other goals. "Primarily, we'd like to find out if the program will result in an increased demand for consultative help. What we're striving to implement is a system under which employers voluntarily work to maintain adequate safety and health programs, rather than one which relies solely on enforcement activities to insure this end. We intend the program, therefore, to foster an atmosphere of cooperation, not opposition."

He added: "Hopefully, the penalty-free advice offered by the

consultants will be used to upgrade workplace safety and health conditions. We want to determine the extent to which the program encourages self-help and self-inspection at the individual worksite level. We also want to upgrade the agency's consultative capabilities through a shift in focus to safety program evaluations, as well as determine the effects of the program on the agency's resources."

As we went to press, statistics compiled by OSHA indicated that the primary goal was being accomplished. Requests for consultation visits within the seven-State area totalled a whopping 2,952. Of these, 2,591 visits had been completed and 839 certificates of exemption granted. In addition, the consultants had identified more than 5,900 serious safety or health hazards.

Collier cited evidence that the program was also reducing duplication of OSHA's enforcement and consultative efforts. "In many instances, businesses which probably would have been scheduled for Federal safety inspections have been excluded from the inspection schedule due to their participation in the consultation program," he said.

Collier noted, however, that the program was suffering from an administrative hitch. "We're a little

concerned over the excessive amount of time it's taking to complete the process from consultation request to exemption. Specifically, the slowdown arises after the employer has satisfied his requirements under the program and must wait for his certificate of exemption to arrive. The problem stems from the several written notices which must be sent back and forth between the employer and OSHA," he said, adding that "we're currently considering ways to speed up the process."

Reaction

"The preliminary indications from the experiment have been very encouraging. We are especially pleased with the additional interest employers show in seeking consultative assistance to make their workplaces safe," stated Auchter in January.

Collier echoed Auchter's optimism, noting specifically that "the great response suggests that employers are willing to accept full responsibility for implementing effective safety programs."

We asked Collier if he was concerned that exempted companies might view their inspection-free period as an opportunity to neglect the plant's safety program. "It's hard to see how this could happen," he replied. "Participants are informed that they must keep their safety and health program up to par. They're also well aware that the exemption is only effective for a year. In addition, as I mentioned earlier, employers know that OSHA will continue to respond to any worker complaint and that the agency will order an inspection if a serious workplace accident occurs."

The reaction from participating companies, registered in an *Occupational Hazards* field check, was overwhelmingly favorable. Said Fred Al-Greene, safety director at Mitternight Boilerworks, a manufacturer of primary pressure vessels and reactors located in Satsuma, Alabama: "The consultation visit we received proved very beneficial. In our type of operation, potentially harmful welding fumes and excessive noise levels are the most common safety and health problems. The consultant explained the best

ways to solve these problems at our facility and, as a result, we were able to save both time and money.”

Lewis Jenkins, personnel supervisor for Southern Bag Co., a manufacturer of multi-wall paper shipping sacks located in Yazoo City, Mississippi, stated: “From an economical standpoint, it would be foolish for any businessman not to take advantage of the consultation program. If the consultant discovers any safety or health violations, the employer is notified and given an opportunity to correct them. On the other hand, if a Federal inspector finds violations, the employer is faced with fines which are often substantial.”

Jenkins also opined that the program “puts back into the State responsibility which never should have been taken away. The State consultants are more familiar with the operations of the worksites they inspect than Federal compliance officers would be. Consequently, they relate better to the specific problems they encounter and, in general, are easier to work with.”

Praise for the program is not, however, universal. Sheldon Samuels, safety, health, and environment director for the AFL-CIO’s Industrial Union Department, charges that “the program is a diversion of OSHA’s resources and attention. It attempts to make cheerleaders out of policemen, and results in ineffective cheerleaders and ineffective policemen.”

Samuels added: “A voluntary program of this type should be generated by workers and management. The Federal government should not be involved.”

When asked if he believed the program will encourage self-help and self-inspection, Samuels responded: “Providing adequate funds for supervisory safety training is the way to get this accomplished — not by a program such as this one.”

As for whether the program will help to end the adversarial relationship between OSHA and the business sector, Samuels asserted: “I would hate to live in a community where there was not an adversarial relationship between policemen and the people they’re supposed to be policing.”

Coming soon

At presstime, OSHA was evaluating the consultation program in order to determine whether to extend it to other States. “There’s a good possibility of an extension. However, first we need to know that the program’s objectives are being realized. We also want to ensure that the level of worker protection provided under the program is suf-

ficient to merit the inspection exemptions,” Collier said.

Collier noted that an evaluation report should be issued “within the next month or so.” Following the report, OSHA will publish a notice in the *Federal Register* requesting comment on whether the program should be applied to additional States. “A final decision should be made shortly thereafter.”

We’ll keep you posted. ■

LEGISLATED JOINT COMMITTEES*

Since late 1976, under Bill 139, the Minister of Labour in Ontario has had the discretion to establish legally mandated joint labour-management health and safety committees in many workplaces. No such committees have been established to date.

Under Bill 70, passed in December 1978 by the Ontario Legislature, joint health and safety committees will be required in all workplaces of twenty or more workers except construction sites, offices, retail stores, apartments, libraries, museums, art galleries, theatres, hotels, restaurants and private clubs. Further, any workplace using a designated substance or under a Toxic Substances order (Sec.20) must have a committee. The powers and duties of the committees under Bill 70 are the same as those under Bill 139 with the addition of the right for one committee member to inspect the workplace and investigate accidents.

The Minister still has the discretion to order committees formed in any excluded workplace. In addition, on all construction sites where the number of workers regularly exceeds twenty, Bill 70 requires the selection by the union or unions of a worker health and safety representative. The health and safety representative has the power to inspect the workplace, identify hazardous situations, and investigate fatal and critical accidents.

Bill 70 Section 8 (5) - (12)

Duties and Powers of a Legislated
Joint Committee

- Composition of committee** (5) A committee shall consist of at least two persons of whom at least half shall be workers who do not exercise managerial functions to be selected by the workers they are to represent or, where there is a trade union or trade unions representing such workers, by the trade union or trade unions.
- Powers of committee** (6) It is the function of a committee and it has power to.
- (a) identify situations that may be a source of danger or hazard to workers;
 - (b) make recommendations to the constructor or employer and the workers for the improvement of the health and safety of workers;
 - (c) recommend to the constructor or employer and the workers the establishment, maintenance and monitoring of programs, measures and procedures respecting the health or safety of workers; and
 - (d) obtain information from the constructor or employer respecting.
 - (i) the identification of potential or existing hazards of materials, processes or equipment. and
 - (ii) health and safety experience and work practices and standards in similar or other industries of which the constructor or employer has knowledge. 1976, c. 79, s. 4 (4), *amended*.
- (7) A committee shall maintain and keep minutes of its proceedings and make the same available for examination and review by an inspector. Minutes of proceedings
- (8) The members of a committee who represent workers shall designate one of the members representing workers to inspect the physical condition of the work place, not more often than once a month or at such intervals as a Director may direct, and it is the duty of the employer and the workers to afford that member such information and assistance as may be required for the purpose of carrying out the inspection. Powers of designated member
- (9) The members of a committee who represent workers shall designate one or more such members to investigate cases where a worker is killed or critically injured at a work place from any cause and one of those members may, subject to subsection 2 of section 25, inspect the place where the accident occurred and any machine, device or thing, and shall report his findings to a Director and to the committee. Idem
New.
- (10) A constructor or an employer required to establish a committee under this section shall post and keep posted at the work place the names and work locations of the committee members in a conspicuous place or places where they are most likely to come to the attention of the workers. Posting of names and work locations
- (11) A committee shall meet at least once every three months at the work place and may be required to meet by order of the Minister. 1976, c. 79, s. 4 (6, 7), *amended*. Meetings
- (12) A member of a committee is entitled to such time from his work as is necessary to attend meetings of the committee and to carry out his duties under subsections 8 and 9 and the time so spent shall be deemed to be work time for which he shall be paid by his employer at his regular or premium rate as may be proper. 1976, c. 79, s. 4 (8), *amended*. Entitlement to time from work

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Section IV – GUIDELINES FOR ESTABLISHING AN EFFECTIVE JOINT LABOR-MANAGEMENT COMMITTEE

In addition to joint labor-management committees initiated through experimental state and federal programs or through legislation, many such committees exist as a result of contract agreements. There appears to be much discussion and disagreement between labor and management in regards to certain aspects of committee provisions. Included here are sample contracts and guidelines which may assist in negotiating good committees and in knowing which are the most important provisions to pursue. Also included are articles describing actions of various committees which have been successful in their efforts to achieve healthier and safer workplace conditions.

Enforcement

LITTLE IMPACT ON SAFETY SEEN FROM MERE EXISTENCE OF COMMITTEE

MONTREAL — (By a BNA Staff Correspondent) — The mere existence of a joint labor-management safety and health committee makes “little difference” in the improvement of safety and health conditions at a workplace, the annual convention of the American Public Health Association was told Nov. 17.

There must be “something special” about the health and safety committee and about the general labor relations situation at a company for the committee to be effective, Leslie Boden, Harvard School of Public Health, stated at a labor-management workshop at the conference.

For the past year, Boden has been working on a pilot study of the effectiveness of safety and health committees as part of a larger overall evaluation to determine whether such groups are helpful in improving occupational safety

and health, and to identify the characteristics which make a committee effective.

In soliciting data, letters were sent to some 290 firms listed in the 1980-81 Directory of Massachusetts Manufacturers as having more than 500 employees each. The companies were asked whether they had a joint labor-management safety and health committee, a management-only committee, a union-only committee, or no committee at all. Responses were received from 127 firms, or about 44 percent, with 79 indicating they were willing to be contacted.

Some 67 percent of the unionized firms were found to have joint committees. Some 28 percent indicated that they had management-only committees, 15 percent had a union-only structure, and 14 percent had no committees.

Among the non-union employers, 49 percent had employee-management committees, 38 percent had management-only, while 6 percent had no committees at all.

Survey Results

A comparison of workplace hazards was conducted among 10-12 unionized firms with health and safety committees and the same number of firms in identical industries without safety and health committees. Annual accident data by firm for the past 10 years were compared with statistics from the Occupational Safety and Health Administration on the number of complaint inspections at a firm and the number of serious hazards cited.

With reference to the larger sample of 74 firms which had OSHA inspections between 1972 and 1981, Boden reported that the researchers were not able to detect any correlation between the existence of joint health and safety committees and either the number of, or the proportion of, complaint inspections.

Based on data obtained during interviews at the 13 plants with health and safety committees, Boden reported that there was a “high correlation” between the perceived effectiveness of the committees and their impact on industrial relations, management commitment to occupational safety and health, and the total number of topics regularly reviewed, such as accident data, industrial hygiene monitoring data, and accident or workers’ compensation reports.

Perceived effectiveness also was correlated, Boden said, with a generally cooperative atmosphere in the committee, with lively meetings, and with the power held by committee members, such as authority to investigate accidents, respond to complaints, and to shut down dangerous jobs.

Viewing committee efforts in relation to OSHA inspection data, Boden found that in workplaces where the committee is perceived as effective, there were fewer complaint inspections and fewer serious citations by OSHA. However, the researchers found that the existence of a strong safety and health committee had little effect on the quality of the complaint, even though fewer complaints were filed in workplaces where committees existed.

reduce enforcement activities and place more reliance on the good faith efforts of employers to resolve problems through joint labor-management agreements. Indeed, the controversial Schweiker bill³ which proposed to severely curtail routine OSHA safety inspections also sought to allow for an employer exemption from inspections if an employer had a functioning joint health and safety committee at the workplace.

It seems clear that there cannot be a return to the type of voluntary compliance climate that existed prior to OSHA, wherein employers controlled access to information and workers made marginally successful efforts to secure some of the power necessary for a resolution of health and safety problems in the workplace. The passage of the OSHA Act gave workers an additional tool to use in their struggle to solve health and safety problems, in part because of the right to complain about health and safety problems and achieve action through OSHA enforcement activities. The present move towards reliance on joint committee activity implies a lessening of emphasis on this enforcement activity. In fact initial demonstration programs would probably involve some type of waiver of routine inspection rights in exchange for an agreement between employers and OSHA to set up a joint committee. If the focus remains on committee activity at the expense of enforcement, certain minimum standards for committee function must be part of the voluntary compliance plan. It is also important that some of the legal issues surrounding the establishment of committees and their relationship to OSHA enforcement activities be clarified. Where joint committees are being considered, in the absence of an OSHA/employer agreement, the same standards should be implemented.

As a starting point it might be well to consider what Robert Sass, director of Occupational Safety and Health, Province of Saskatchewan, considers to be the fundamental rights of committees: the right to participate; the right to know; and the right to refuse.⁴ A fourth right, the right to regulate or monitor, could ensure that existing employee rights are not circumvented, and that innovative approaches may be applied to solve health and safety problems.

The recent Supreme Court decision in the case of *Whirlpool v. Marshall*⁵ has established a basis for workers to refuse unsafe or unhealthy work. Recent legislation in some states (California, New York and Maine) as well as federal OSHA's proposed standard on hazards identification⁶ have at

3. S.2153, 96th Congress, 1st Sess. (1979).

4. Robert Sass, speech at "Bill 70: Success or Failure," sponsored by the Ontario Federation of Labour, Toronto, October 30, 1980.

5. 445 U.S. 1 (1980).

6. 46 Fed. Reg. 4412, Friday, January 16, 1981.

Workplace Health and Safety Committees: Minimum Criteria for Maximum Benefits

Janet Bertinuson

While health and safety committees in the workplace are not a new phenomenon, since passage of the Occupational Safety and Health Act of 1970 the numbers of committees and the scope of their activity has increased primarily in organized workplaces. Still, at the present time less than 10 percent of the American workforce is covered by health and safety committees.¹ Some of the committees are comprised only of local union members, but increasing numbers are comprised of labor and management representatives. Although some committees are formed as a result of management directives, the majority are the result of contractual agreement. Only one state, Washington, has committees mandated by law. In fact, Washington had provisions requiring establishment of joint committees as early as 1945, but the current health and safety committee standard was enacted in 1978. A number of the minimum requirements for health and safety committees suggested in this article are present in the Washington regulation.²

It seems evident that the push for joint labor-management committees will increase in response to the current antiregulatory climate, as part of an escalated movement toward voluntary compliance efforts to solve occupational health and safety problems. In fact, the Occupational Safety and Health Administration has been exploring the possibility of establishing demonstration or pilot joint committee programs. At the same time employers and employer organizations are suggesting that OSHA should

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1. Matt Witt and Steve Early, "The Worker As Safety Inspector," *Working Papers: September-October, 1980*, pp. 21-29.

2. Part A-1, Chapter 296-24-045 Washington Administrative Code.

least laid the groundwork for workers rights to information on chemical hazards. In addition, OSHA's access to records standard⁷ has provided access rights for workers and their representatives to medical and monitoring records and data. The minimum requirements for effective functioning of joint committees can be categorized by their relation to these four primary rights.

Right to Participate

In order to ensure that employees are adequately represented on a committee, such committees should be composed of at least as many employee as employer representatives, with a rotating chairperson to preclude committee domination by a single individual. Since the atmosphere in which such committees operate is presumed to be nonadversarial, committee members, particularly employee representatives, must be able to participate in committee activities without fear of reprisal. This includes the right of employees to select their own representatives without interference. A noninterference policy is particularly important in unorganized workplaces. More effective protection than currently exists under section 11(c), Occupational Safety and Health Act prohibiting employer retaliation against employees for health and safety activity, must be provided in any joint committee agreement.

Workplace inspections conducted by the joint committee on a regular (at least monthly) basis, or more often if committee members consider them necessary, are crucial if effective participation is to be guaranteed. To further increase participation, it is desirable that committees have access to the tools of the industrial hygienist and the training necessary to use such tools. This means committees must have training in recognition, evaluation and control of hazards, and specific instruction in the proper use of monitoring equipment. Participation in accident investigations and discussion of both accidents and "near misses" are also necessary for effective committee function.

The right or ability to participate also implies that committee members will not be constrained by work schedules and location from attending meetings and taking part in investigations and inspections. This right should be part of any joint agreement: when inspections and meetings will take employee representatives away from their normal work, there can be no economic penalty for such activity. Unless compensation is provided for employees on committee business, adequate representation of employees on the committee will be difficult to achieve.

7. 29 CFR 1910.2, Friday, May 23, 1980.

There is a great deal of controversy over the issue of workers being paid while taking part in occupational health and safety activities, particularly with regard to walk-around pay during OSHA inspections. While OSHA has issued a standard requiring compensation for employees who exercise their walk-around rights,⁸ the OSHA rule is being challenged and the courts will determine the outcome. There are also court cases relating to the Fair Labor Standards Act which confuse the issue of payment for health and safety activity. In *Leone v. Mobile Oil Corp.*, the District of Columbia Court of Appeals held that the definition of "hours worked" requires that the work be performed for the benefit, and under the control, of the employer, and that walk-around activities satisfied none of these requirements.⁹ However, since joint labor-management committees are seeking primarily to improve the workplace, a strong argument can be made that they are therefore performing work for the benefit of the employer.

Right to Know

Through state legislation, federal OSHA access to records standard, and proposed identification and labeling standard, workers have increasing rights in access to information. The right of committees to know what hazardous chemicals are used and produced in their workplace, the results of workplace monitoring, results of toxicological studies conducted by their employer, and information from medical records (not just their own individual records) is an acknowledgement of rights already addressed. In addition, a series of National Labor Relations Board cases have recognized the rights of organized employees, through their representatives, to have access to company health and safety data. In one case, the company was found guilty of an unfair labor practice for not providing the union with data on employee health and safety programs, monitoring and testing systems, devices and equipment, statistical data related to working conditions, and generic names of all chemicals used or produced in the plant.¹⁰

While legislation, standards, and the NLRB decision provide unions access to health and safety information, any agreement for joint committees must make this access right applicable to the committee membership. This right is specifically provided in Executive Order 12196 (February 27, 1980) which establishes occupational health programs for federal employees, and joint committees. Section 1-302 states that the committee can "have access to information relevant to their duties." Training in in-

8. 29 CFR 1903, Friday, January 16, 1981.

9. 523 F.2d 1153 (D.C. Cir. 1975).

10. *Minnesota Mining and Manufacturing Company*, NLRB Case No. 18-CA-5710 (1979).

terpretation of information, particularly medical and monitoring data, is directly related to the right to know and should be incorporated into other training provided for committee members.

Right to Know/Right to Regulate

While the right to refuse work that is believed to be unsafe or unhealthy is vested in the individual worker, the committee can become involved in so far as they regulate or enforce the right. This would extend to the power of the committee members to shut down hazardous equipment or operations. The regulation aspect of committee functions also includes the right to be informed of progress made in carrying out the committee recommendations (generally through progress reports at committee meetings). The committee should mutually agree to reasonable abatement dates to ensure prompt investigation and correction of hazards. Involvement of committee members in decision making on how and what new equipment will be installed or how new processes or operations will be instituted in the workplace is another aspect of the right to regulate. Especially in situations where there are no existing standards governing safe operation of equipment or a process, or where existing standards may not be applicable, the committee should suggest innovative approaches to solving health and safety problems. They should not be constrained by the regulatory framework from taking positive steps to prevent or correct health and safety problems. Finally, the regulatory aspect of the committee comes into play in insuring that worker rights such as filing grievances or OSHA complaints can be exercised when necessary.

If OSHA is to enter into agreement with employers to establish committees even on a pilot basis, a fixed procedure must be established to ensure that: (1) committees follow the established requirements for their function, (2) provision is made for settling disputes that arise in a committee, and (3) employee rights are not circumvented through such agreements. In order to insure that committees are following the (yet to be) established guidelines or requirements, reliable monitoring criteria must be developed and committee activity well documented. It is incumbent upon the Agency, in the role of monitor, to make certain that committees are functioning in accordance with requirements.

Since committees are likely to disagree over such items as necessity for instituting controls, the type of control, or the existence or seriousness of a particular health problem, some method of handling disputes is necessary. As in the state of Washington, the educational unit could provide assistance in such disputes or a specially-focused consulting unit could be formed.

However, it is important that workers do not lose one of their fundamental rights if they believe the employer is in violation of the law: the right to complain and request an inspection. Although the primary function of a joint committee is to solve health and safety problems at the workplace level, it is imperative that when all else fails, complaint rights are still available.

While joint committees are likely to be established in a number of workplaces throughout the United States, and will hopefully be provided with the rights as outlined here, it is important for the union, where one exists, to continue health and safety activity through a union health and safety committee. This committee can serve as an important internal monitoring system for activities of the joint committee; it can also make certain that employee rights to grieve or complain to OSHA or state OSHA agencies about health and safety problems are not circumvented.

Organizing a Union Safety and Health Committee

Unions have many new responsibilities and opportunities to solve safety and health problems under OSHA, including detecting hazards, filing safety grievances and complaints, taking part in OSHA inspections and employer appeals and doing informed lobbying on safety laws and rules. To do a good job on these complex issues a number of unions are setting up Safety and Health Committees. In some cases, the union also participates in Joint Safety and Health Committees with the employer. Remember union safety committees must use OSHA complaints and safety grievances as a pressure device to be effective.

Union Safety and Health Committees:

This probably should be formed as a standing committee of the local units. The main functions of the committee would include:

- frequent plant safety tours
- investigations of serious safety violations, accidents and near misses
- filing and following up on OSHA complaints
- acting as union "walkaround" representative
- helping members on refusal to work issues
- assistance to other local union committees on grievances, contract language on safety and safety training
- purchasing for the local library safety codes and regulations and training materials in safety, industrial hygiene, occupational diseases
- participating in safety training by OSHA "New Directions" grants, the union and other sources
- reviewing the employer's use of toxic materials, hazardous machinery or equipment, demanding that remodeling or construction consider safety and health needs and provide necessary ventilation and enclosure of hazards.
- keeping informed on OSHA and state laws and policies and lobbying on safety and health legislation
- training committee members in the use of basic industrial hygiene instruments like a sound-level meter, Botsball heat-stress thermometer, gas and vapor detector, velometer (ventilation). Purchase of a basic instrument kit for the local.

The committee should be set up so it assists but does not compete with the Grievance/Bargaining Committee. In locals with several bargaining units, there should be a Central Union Policy Committee and individual plant representatives or committees coordinating their efforts with the local.

Caution on Joint Safety Committees:

Many employers have to set up Joint Safety Committees as a "consultative" device to avoid bargaining with the union on an equal basis over safety matters, on grounds that safety is a "cooperative" goal of union and management. The existence of a Joint Committee also gives them "good faith" credit with OSHA. However, in most cases the union should not participate in a joint committee unless they have equal control and are already operating from a strong union committee. Remember that the union and the company have conflicting interests on many safety matters like cost of safety improvements, OSHA complaints, identifying occupational diseases. In evaluating a Joint Committee, the union should ask:

- Do union members have a practice of meeting separately, bringing up agenda items and planning strategy before meetings?
- Do the Union and the employer have an equal number of members?
- Does the union have sole right to appoint its representatives?
- Do the chairmanship and secretaryship rotate between the parties?
- Does the committee's functions include frequent unannounced safety tours, review of employer policies on toxic materials and equipment, investigation of injuries, accidents and diseases and other items of interest to the union?
- Who makes up the agenda and approves minutes?
- Does operating management take action on committee recommendations and decisions?
- Is there a neutral procedure for breaking tie votes?
- Do committee members have the right to inspect the plant at reasonable times, with health instruments?
- Does the committee have access to all company data on injuries and illnesses, monitoring, toxic materials, relative costs of safety improvements, workmen's compensation records?
- Can union safety committee members receive lost-time pay to devote a substantial part of their working hours to safety and health work?

Safety Tours:

The safety tour by the Joint Committee can be very helpful to the union in identifying safety problems and providing written evidence that management is aware of violations. The tour should meet the following conditions:

- The tour should take place frequently, probably at least monthly
- The Joint Committee should divide the plant into areas or departments for safety tours, based on seriousness of hazards.
- The tour should be unannounced
- Both union and company should have an equal voice in choosing the area(s) to be toured immediately before the inspection
- The committee should prepare for an inspection by reviewing OSHA codes, accident reports and talking to workers.
- The tour should be thorough, 4-5 hours long, rather than a superficial walk-through
- There should be a written joint report of the inspection containing OSHA code violations and describing in detail other hazards, dates for correction and the management official responsible.
- Follow-up inspections should be done to assure correction of hazards.
- A hazards inventory should be frequently done for each area and operation

Richard Ginnold
November 7, 1979

Note:

In the previous section, information was presented on the Washington state law which requires the establishment of joint health and safety committees. Included here are recommendations made in regard to the Washington program, compiled from various labor, management, and government sources before the law was implemented. These recommendations can serve as guidelines for the organization of joint committees in other settings.

Excerpts from: Survey of Occupational and Legal Issues Related to Support of Workplace Health and Safety Committees / Bertinuson, Davis, Drapkin, and Weinstein LOHP, September 5, 1980

V. Conclusion

Washington state provides a unique setting for joint management/labor health and safety committees. In addition to the state's long history of management/labor cooperation, state regulations mandating such committees have existed since 1945. In 1960, regulations were enacted that required: equal management and labor representation on joint committees; labor committee members elected by the employees; monthly employer-chaired and scheduled meetings that included committee accident investigation reports and analyses and monthly committee inspection reports and recommendations; and committee members to participate in accident investigations and monthly worksite inspections. Committee activities were monitored by monthly Department of Labor and Industries visits and by evalu-

ation of employers' monthly Education Reports (containing a copy of the previous month's safety committee meeting" to the Department of Labor and Industries. Education Reports were maintained by the Department.

With the promulgation of the OSHA Act in 1970 and WISHA in 1973, Washington experienced a disintegration in occupational safety and health protections which by 1978 had resulted in increased injuries and illnesses. The 1978 re-establishment of legally mandated committees was an attempt to stem the rising injuries/illnesses and return to a demonstrated and effective "voluntary compliance" program. The 1978 regulations (WAC-296-24-045) required that: there be at least as many employee-elected as management committee members; the committee select a chair and determine frequency and schedule of meetings; meetings should review health and safety inspection reports, evaluate accident investigations, and evaluate the accident/illness prevention program (-040). Monitoring was to be achieved through Compliance activities, employee complaints alleging employer noncompliance with -040 and -045, and "voluntary" employer consultations with Education as a result of Education-initiated visits to specially targeted high-risk firms or Compliance referrals of repeating high-risk firms or those cited to be out of compliance with -040 and -045 during inspections.

The re-enactment of legally-mandated joint labor/management committees in Washington state was made possible in large part by the state's industrial insurance regulations which required that companies either be state-insured or self-insured. Self-insured companies were certified through WISHA based on whether they had a safety program and joint management/labor health and safety committee.

Following are recommendations for essential administrative, structural, and functional components related to such joint health and safety committees as "voluntary compliance" program components. These have been summarized from implications addressed by previous discussions in this paper as well as from explicit

opinions expressed by labor, management, and WISHA officials in interviews and public hearings prior to enactment of -045 in 1978.

It is important to recognize that the Washington state requirements for joint management/labor health and safety committees in every workplace can't be separated from the parallel requirement that each workplace have a formal accident prevention program. And in fact, one of the committee's mandated functions is to evaluate the employer's safety program at its regular meetings.

To better facilitate the following recommendations, they have been divided into A. Administrative Components Related to Compliance with Regulations, and B. Essential Committee Structures and Functions.

A. Recommendations for Administrative Components Related to Compliance with Regulations

1. Data Base. One of the most promising features of the Washington state program is the data base used to identify high-risk firms for special inspection targeting. This data base (all worker's compensation claims) is especially beneficial for targeting safety inspections, thus enabling resulting Compliance activities to adequately monitor compliance with -045 among high-risk firms with a preponderance of safety problems. However, it is not a reliable basis for monitoring firms with a preponderance of health problems.

2. Special Emphasis Targeting. Washington's special emphasis targeting program, based as it is on six-weekly reports of firms having 30 percent or higher incidences of injuries (per 100 workers) than the state industry average also provides a reliable means to identify high-risk firms with a preponderance of safety problems and potential inadequate accident prevention programs and health and safety committee structures and functions. Again, the Washington system is at this point inadequate to reliably target high-risk firms with a preponderance of health problems.

3. Education. Until most employees know of -040 and -045 provisions and their right to complain of alleged safety code violations, the complaint procedure will be an inadequate and unreliable monitor of employer compliance with these two provisions. In addition, the complaint-procedure-as-monitor will always be easier to use without fear of recrimination by organized workers, especially in plants with contract language expanding joint health and safety committee structures and functions beyond -045 requirements.

4. Monitoring. There needs to be reliable monitoring criteria to insure that management/labor health and safety committees are meeting legally mandated requirements. The monitoring system outlined by the 1960 Washington state legislation was more reliable than the system established by the 1978 legislation. However, the 1978 legislation does insure that health and safety problems discussed in joint committee meetings and documented in the minutes do not automatically generate Compliance activities.

5. Disputes. There must be a means to resolve disputes, especially between labor and management components, should they develop within a committee. In Washington state, Education can be brought in by management to act as an arbitrator or to assist a nonfunctioning committee. Consultation can also assist in resolving technical issues. And Compliance can be brought in over alleged noncompliance with a state safety regulation. All labor representatives interviewed suggested that unless the labor components of joint committees are willing to resort to calling in WISHA compliance, they will basically have no leverage. By implication, labor members of joint committees in organized workplaces will probably be more apt to exercise their complaint rights as leverage to implement committee recommendations than those worker representatives in unorganized workplaces.

B. Recommendations for Joint Committee Structures and Functions

1. Employee-elected members with guaranteed management noninterference in elections. This guarantee is particularly important in unorganized workplaces.

2. At least as many employee as employer committee members.

3. Where work sites are dispersed as in logging or overland trucking, guarantees that all labor committee members can attend scheduled meetings.

4. Committees be required to meet at least monthly.

5. Labor representatives have input in setting of agenda and counter-signing committee meeting minutes.

6. Accurate minutes of meetings be recorded, transcribed, disseminated to entire membership as well as maintained by the company for a specified period of time (for example, one year). The maintenance of minutes, files, or reports on-site provides the Administrative monitoring component documentation to determine if the committee is indeed functioning as well as a record of accomplishments. In addition, most labor representatives interviewed suggested that it is crucial to keep the union membership informed of committee activities, that by making its activities very visible, the committee could more effectively promote safe work practices.

7. Committee functions should include: regular meetings; investigations; and analyses of accidents and near misses; regular (monthly) workplace inspections; collection and dissemination of information on job hazards and protections; and evaluation of the employer's accident prevention program.

8. Both management and labor members should receive health and safety training, preferably paid for by management to guarantee same level of training.

9. Labor members of committee should be paid for time spent while involved in committee functions and meetings.

10. At meetings, management should be required to review: progress being made on previous month's committee meeting recommendations, any unsolved OSHA complaint or citation, and any unresolved health and safety complaint brought to management's attention in the past; injury/illness records (as in the OSHA 200 log); results of accident and near miss investigations; results of any committee or management workplace inspections, including air monitoring results.

LOCAL UNION ACTION PROGRAM

Two Tasks Face Every Worker and Union Representative:

1. How to Recognize Hazards
2. How to Get Management to Fix Those Hazards

Listed below are a number of action items which the Local Union should undertake to identify and correct safety and health problems. In most cases agreements will be necessary with management in order to pursue these items.

Inspect the plant regularly. The Safety Committee, with special training in hazard recognition, should make surveys to spot every detectable hazard. Additionally, some surveys should be more specific, such as looking for noise problems caused by poor maintenance or for proper safeguards on all presses. Additionally, stewards and bargaining committeemen should inspect their own areas for hazards and poor housekeeping.

Conduct a poll of the workers to find out what hazards they are most conscious of and want eliminated first. This also helps raise their awareness about the hazards they face. Ask if they have ideas on how to fix the problem (such as stopping some noise or guarding moving equipment).

Be sensitive to medical complaints and symptoms. Problems like headaches, nausea, dizziness, shortness of breath, frequent coughs, and irritations to the eyes, nose, throat, and skin could easily be caused by conditions at work.

Check OSHA Form 200, which is the company's daily log of injuries and illnesses. The form is required* by OSHA and contains both the daily list and a summary of recordable injuries and illnesses. The form is available to all workers and former workers. Obtain from the nearest OSHA office detailed information on what should be recorded on Form 200.

Use the log to:

- Check the accuracy of log entries.
- Identify patterns of injuries or symptoms requiring further investigation.
- Trace the effects of potentially toxic materials.
- Learn about past problems and exposures.

Notify supervision of the hazards discovered or

suspected. Try to get the supervisors to correct these hazards using methods you have immediately at your disposal.

Keep a list of all unresolved or repeating problems in a permanent file. If you don't have records, you don't have anything.

Check new operations for hazards. Stop the problem before it becomes one.

Investigate all injuries and near misses. Correct the unsafe condition which caused the action. Was supervision aware? Why or why not?

Study each job for hazards. Ask yourself: Can someone be killed here? Can someone be injured? Is there anything which might harm health? Watch the worker's actions through a complete work cycle—what could go wrong?

Tell management to correct the unsafe conditions.

Get copies of all safe procedures. Make sure the company follows its own rules.

Learn what medical tests are being given and the meaning of these. Union staff, a government agency (OSHA, Health Department) or even your personal doctor can help explain what the tests are for.

Instruct all workers to request exact copies of medical exam results and a written opinion of their significance.

NOISE

If you need to shout to be heard a few feet away you probably have a noise problem.

Inform people in noisy areas that noise causes hearing loss and other health problems.

Measure the noise levels. Insist on getting the results of company measurements. Negotiate the right for the Union Safety Representative to take measurements—the noise meter is simple to use.

Demand from the company a plan of action to eliminate or reduce the noise. Ask for this plan and for progress reports.

Watch for noise enclosures which have been left open, or "garbage noise" caused by machines in need of repair. Correct these on your safety tours.

Insist on engineering controls. Federal law re-

*NOTE: Employers with fewer than 11 workers are exempt from this requirement.

quires that engineering controls, not ear plugs, be used to solve noise problems. Ear protection may be used as a temporary measure until noise levels are reduced or if engineering controls have failed. Inform all people who have been issued ear protection of this law and insist on a compliance date from the company. For more information write for *Noise Control—A Worker's Manual* available from the UAW Social Security Department for \$1.25.

AIR CONTAMINATION

Check for smoke, clouds of dust, unusual smells. There may be a health hazard.

Identify all raw ingredients and by-products (for example, what the dust is).

Measure the contaminant if it is airborne. Company experts and government inspectors can take these measurements. Get a written copy of the results. Negotiate the right for the Union Safety Representative to be involved in this sampling.

Notify the people of a health hazard in their area. Tell them of any problems it might cause. Tell them of the efforts made or being made to eliminate the hazard:

Insist on engineering controls. Federal law requires that engineering controls, not respirators, be used to solve air contamination problems. Face masks may be used only as a temporary measure until the air contamination is eliminated or if engineering controls have failed or if the worker is exposed only very infrequently.

Look for existing exhaust ventilation duct work and hoods. Why are they there? What is the hazard? Is the ventilation adequate? Is it faulty? Blocked? The best ventilation of toxic materials is an exhaust duct which comes right down to the source of the exposure and eliminates it before it contaminates the air a worker might breathe.

BARGAIN FOR QUALITY UAW WORKING CONDITIONS

Demand specific improvements in the plant either through formal contract negotiations, or through informal agreements with management at the corporate or local level. Winning grievances on health and safety establishes precedents which can be used to maintain good conditions in other similar circumstances.

Set your own standards high. Workers organized the UAW not merely to see that minimal government standards are met, but to see that workers have the best possible conditions. Treat the OSHA standards like the minimum wage law—it's good that there are these minimum regulations, but a Union shop should gain as much beyond this as possible. Countless numbers of UAW locals have been able to win far better solutions to health and safety problems than what the law requires.

Do not take for granted company claims that chemicals or fumes are harmless. Most workplace hazards have never been adequately researched. Health standards were established based on what

little medical information was available in the past and on questionable assumptions about safety factors. Often chemicals which were once thought to be safe have now been found to be hazardous.



The only **PROVEN** safe level of exposure for chemicals, dusts, and fumes is **ZERO** exposure.

MANAGEMENT'S SAFETY PROGRAM

Insist that management develop a good safety program. The company should:

Consult with professional health and safety experts to survey the plant for hazards and recommend solutions.

Conduct a Job Safety Analysis and develop written safe job procedures for each job.

Develop a hazardous materials manual for all chemicals in the plant. Most plants do not yet have this manual, but it is important to start compiling one. There should be at least a list of all chemicals and materials used.

The manual should contain a safety data sheet (available from the manufacturer) on each material with information on the possible hazards of the material and instructions for safe use and emergencies. The manual should be readily available to all workers. The best system is to have both a plant-wide list located in a central office and departmental lists located in each department.

Label all containers of chemicals.

Post warning signs in areas using toxic materials.

Instruct new hires or newly transferred people in detail about potential hazards and how to do the job safely. Refresher information should be provided periodically. Safe job procedures and the Hazardous Materials Manual should be used as a basis for the training.

Establish a Health and Safety Maintenance and Housekeeping Crew to correct all maintenance and housekeeping problems identified by the Safety Committee.

Provide periodic medical examinations for workers exposed to potentially harmful materials.

Report periodically to the Local Union on the implications of the results of the periodic medical exams.

Prepare written plans for improvements in plant conditions. These plans should be shared with the Local Union.

What Makes an Effective Or Ineffective Joint Safety Committee?

Because of the increase in joint safety and health committees in many hazardous industries, it is important to know what makes committees work. It is especially urgent to apply good organizational techniques in the setting up of the committee and early in its life, since many committees tend to die or fall into disuse within a year of their formation.

Recent research shows that there are some clear differences between effective and ineffective committees, as indicated below. Please review this and see whether you agree or can add some additional points.

Characteristics of Effective Safety Committees

1. The committee uses a locally negotiated collective bargaining agreement as opposed to corporate wide agreements unilaterally applied to all plants.
2. Company employs a full-time safety officer with authority to make decisions about hazard and loss control.
3. Layers of supervision are minimized between the safety officer and top management.
4. Line managers attend and contribute to safety meetings.
5. Management gives policy support and a budget to the activities and recommendations of the safety committee.
6. The union has equal representation on the joint committee.
7. The union has its own safety representation, including stewards appointed on each work shift and department, providing continuous worker representation on safety and health.
8. Management and labor exchange a monthly report of issues and problems concerning safety and health.
9. Safety committee decisions and actions show a high level of problem solving.
10. The committee meets at least every month and each meeting is preceded by a walkaround tour of the work areas.
11. Union and management translate external pressures on safety and health into a constructive plan of action which is integrated into company policy.
12. Management conscientiously works to buffer committee members from the collective bargaining process.
13. Management and the union choose hard-working, perceptive committee members who are genuinely interested in safety and health.

Characteristics of Ineffective Safety Committees

1. The company has a corporate-based safety director removed from the plant.
2. Local safety and health issues are handled by a safety and health coordinator with multiple duties.
3. Many layers of supervision are between the OSH coordinator and top management.
4. The safety director heads the safety committee.
5. Line department heads do not regularly attend meetings.
6. Monthly committee meetings are often postponed.

7. Committee meetings are perfunctory and do not accomplish what they are capable of.
8. Management gives lip-service to its hazard control program instead of demonstrating an active role.
9. Even if there is a contract clause on safety, the union does not provide a chairperson to preside over its union appointed joint committee representatives.
10. Poor communication exists between department safety representatives and the rank-and-file.

Source: Some of the above is drawn from Robert Firenze, The Process of Hazard Control, 1978, Kendall Hunt Publishers.

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September 22, 1980

34. PROVISIONS FOR RECOGNIZING ORGANIZED UNION HEALTH AND SAFETY STRUCTURES

Discussion Unions handle safety and health issues in a variety of ways. Some appoint full time safety officers with the status of union representatives who regularly investigate health and safety complaints and problems on the job. Other unions establish health and safety committees in their locals, and within each individual plant meet regularly with employers to resolve problems. Still other unions participate in joint labor-management health and safety committees. And some unions use their established grievance machinery and shop stewards system to deal with health and safety.

All of these methods have proven to be effective in a variety of differing circumstances. What seems to be the real key to improving health and safety on the job is for the union to have a plan and set of objectives and goals to actively pursue, with the broadest support possible of the membership. Whatever structure is utilized or adopted by a given international or local union, it is essential that the safety representatives function independently of the employer and formulate their own agenda and approaches to employers. Obviously a non-adversary atmosphere is ideal, but there also must be an orderly method for resolving differences between the union and employer in this area as well as in resolving traditional grievances. The chief complaint of many workers who serve on joint labor-management committees is that such organizations are chiefly cosmetic, or that they are so dominated by the employer that they cannot be effective, or that the employer representatives lack real authority to accomplish change. Another reason for having an independent group of union safety representatives recognized by the employer is to clearly delineate the employer's sole responsibility for providing a safe and healthy place to work.

In the sample clauses which follow, it has not been possible to find samples which accurately reflect model language furnished for consideration. In numerous cases unions have obtained extensive rights for safety representatives which are exercised as a matter of practice and policy, reflecting mature collective bargaining relationships which are not written down in the agreement. Each union will have to decide, as a matter of tactics, how detailed they wish to be in formulating contract language for collective bargaining purposes.

Sample Clauses

1) Two union, two employer committee handles all safety and health problems:

A safety committee shall be established. The Committee shall be composed of four (4) representatives, two (2) from the Union and two (2) from the Company. The Committee shall handle safety matters in connection with the Plating Division. The safety committee may shut down a machine or operation which a majority of the committee (a quorum shall be four (4) members) agrees is safe. (*Superior Plating, Inc. and Electrical Workers (IUE); exp. 9/78*)

2. Committee selected by union, recognized by employer:

The company will recognize at each plant a Safety Committee to be selected by the Union, consisting of not more than three (3) employees and their alternates, and will meet with said Safety Committee at mutually agreed times to discuss matters relating to safety within the plants. All complaints or suggestions for the betterment of health conditions in the plant submitted by the Committee shall be promptly investigated by the Company. If a matter complained of is not promptly settled to the satisfaction of the Committee, it shall, at the request of the Committee, be immediately submitted for final decision to the Division of Industrial Safety of the state in which the plant is situated. (*Printing Specialties and Paper Products Workers, Crown Zellerbach Corp., San Leandro, California, 9/30/75*)

3. Joint union employer safety committee:

A Safety Committee consisting of three (3) employees designated by the Union and three (3) management members designated by the Company shall be established. The Union and the Company shall designate their respective Co-Chairmen and shall certify to each other, in writing, such Co-Chairmen and Committee members. The Committee shall hold monthly meetings at times determined by the Co-Chairmen who may also agree to hold special meetings, preferably outside of regular working hours. Each Co-Chairman shall submit a proposed agenda to the other Co-Chairman at least five (5) days prior to the monthly meeting. The Company Co-Chairman shall provide the Union Co-Chairman with a copy of the minutes of the monthly meeting. Prior to such monthly meeting, the Co-Chairmen or their designated representatives shall engage in an inspection of mutually selected areas of the Plant. Before the monthly meeting is held, a report of the inspection shall be prepared by the Company which shall include unsafe conditions and practices observed during the inspection. A copy of the report shall be furnished to the Union Co-Chairman. (*United Steelworkers of America, Kaiser Steel Corp., exp. 3/1/74*)

Models

1) Small Company safety committee.

There will be a safety committee in the plant. This committee will consist of ____ Union representatives and ____ representatives of the employer.

The Union members of the committee shall be paid at their regular rate for any time required to investigate and meet on safety and health problems. (Note: fill in the appropriate number for your situation)

2) Employer recognizes union committee and provides full rights to function at the workplace.

The employer shall recognize the union health and safety committee established by the union with one representative from each shift in each department. Safety committee members shall have all the safeguards and protections given shop stewards. Committee members shall have unlimited access in their department or area of jurisdiction and shall have the right to investigate and process safety and health complaints and problems. The chairperson of the union committee shall have the freedom of movement to contact safety committee members throughout the plant and aid them in handling health and safety problems. Members will be paid their regular rate of pay when performing their duties.

3) Comprehensive joint union-employer committee.

1. Joint union management committees:

There shall be a joint labor-management health and safety committee. The committee shall be composed of an equal number of management and union representatives. The union representatives shall be selected by the local union.

2. The joint committee shall perform the following functions:

- a. Meet at least once every month at established dates;
- b. Make periodic inspections of the plant at least once every month.
- c. Make recommendations for the correction of unsafe or harmful conditions and the elimination of unsafe or harmful work practices.
- d. Review and analyze all reports of industrial injury or illness, investigate causes of same, and recommend rules and procedures for the prevention of accidents and disease and for the promotion of the health and safety of employees.
- e. Promote health and safety education.
- f. Accompany government inspectors and employer consultants on all surveys of the plant and participate in these inspections.
- g. Investigate any worker exposure to potentially dangerous substances, fumes, noise, dust, etc.
- f. Be notified by the employer of any proposed measurement of worker exposure to any potentially dangerous conditions and be involved in these measurement procedures;
- h. Receive in writing the identification of any potentially toxic substance to which the workers are exposed together with material data sheets, if any.

3. The employer shall keep minutes of all meetings and provide union representatives with copies.

4. The employer shall pay union members of the committee at their regular rate for all time spent on committee business, including time spent in inspections, handling of safety problems, accompanying inspectors, and in meetings.
5. The employer agrees to provide the committee with adequate equipment and training for measuring noises, air flow, tion of air contaminants, and other workplace hazards. Specifically, the employer shall pay all reasonable costs of training and lost time when necessary, for the union committee members.
6. The committee shall be considered an adjunct of, and subordinate to, the regular grievance procedure. All disputes and disagreements arising under the health and safety clauses of this contract, if not disposed of by the health and safety committee, shall be subject to the grievance procedure.
7. The committee may ask the advice, opinion and suggestions of experts and authorities on safety matters. The committee or union representatives thereof shall have the right to call to the plant such experts and authorities, as well as international representatives of the union; and they shall be permitted to make such examinations, investigations and recommendations as shall be reasonably connected with the purposes of the committee.

Health and Safety Committee:

16.01 [b]

The parties agree to the establishment of a Committee comprised of 3 members appointed by the Union and 3 members appointed by the Company to advise Management of Safety and Health matters with particular emphasis on plant environmental conditions which may cause actual or potential safety or health hazards. The members shall choose one of their number who shall be Chairman. The Company will make available to the Committee technical data and other information in its possession which may be necessary for the Committee's efficient functioning including information regarding known hazardous substances present at the work site. The Company will compensate members of the Committee for approved time lost from their regular work while engaged on the work of the Committee.

15:04 The Union shall be entitled to representation at the meetings of the Safety Committee by a member or members (not to exceed three) appointed by the Union. The Company will arrange all meetings of the Safety Committee so that at least one representative of the Union can be present. The Union will notify the Company of the person or persons appointed by the Union to attend safety meetings. Such representatives will be notified of the time and place of all meetings of the Safety Committee. They shall be notified of investigations of lost time accidents and one member shall be permitted to attend such investigation. Time spent in safety matters by Union Committee members shall be paid for by the Company. Observations made on the departmental safety tours will be given to the Safety Committee.

- (c) The Committee's advice and recommendations, after considering specific matters, may be passed to the responsible Company personnel for their consideration. The Company shall provide the Committee information it has knowledge of in respect to potential or existing hazards of materials, processes or equipment in order to assist the Committee in fulfilling its function.
- (d) It would be expected that any action the Company may take as a result of implementing any of the Committee's recommendations would be supported completely by the Union.
- (e) Wages of Union members of the Committee while at Committee business will be borne by the Company at straight time rates.

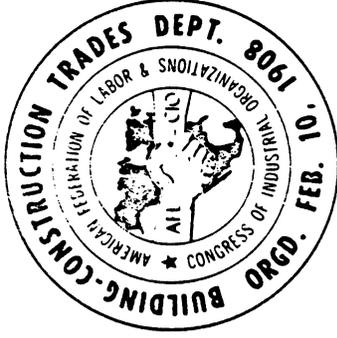
from: American Federation of Government Employees'
Federal Sector Occupational Safety and Health Workbook

G. Labor-Management Occupational Safety and Health Committees

1. The employer agrees to establish a labor-management Occupational Safety and Health Committee composed of representatives of management and an equal number of representatives of labor. The employer further agrees to develop and issue appropriate identification, e.g., official safety and health credentials, to all committee members to assist them in carrying out their responsibilities.
 - (a) Committee members shall serve overlapping terms. Such terms shall be of at least two years duration.
 - (b) The committee chairperson shall be nominated from among the committee members and shall be elected by the committee members. Management and Labor members shall alternate as chairperson. Maximum service time as chairperson shall be two consecutive years.
 - (c) The committee shall meet regularly. Special meetings shall be held as necessary.
 - (d) Written minutes of each meeting shall be maintained and distributed to each committee member and made available to employees upon request.
 - (e) The employer shall make available to the committee all agency information relevant and necessary to its duties. Examples of such information include the agencies safety and health policies and program, accident, injury, and illness data, epidemiological data, material safety data sheets, inspection reports, abatement plans, and internal and external evaluation reports.
2. Duties of the Committee shall include:
 - (a) Monitor and assist in the operation of the safety and health program and make recommendations to the official in charge for improvements.
 - (b) Monitor findings and reports of workplace inspections to ensure that appropriate corrective measures are implemented.

- (c) Participate in inspections of the establishment when in the judgment of either side of the committee such activity is necessary for monitoring establishments inspection procedures.
- (d) Review plans for abating hazards
- (e) Review responses to reports concerned with allegations of hazardous conditions, alleged safety and health program deficiencies, and allegations of discrimination. If half the members of record on the committee are not substantially satisfied with the response, they may request an appropriate investigation to be conducted by OSHA.
- (f) Review procedures for handling safety and health suggestions and recommendations from employees.
- (g) Review reports of unsafe and unhealthful conditions where the hazard has been disputed.

*Building and Construction
Trades Department AFL-CIO*



“Protection and Production”

**JOB—SITE
LABOR/MANAGEMENT
COOPERATIVE SAFETY AND HEALTH PROGRAM**
between

BUILDING AND CONSTRUCTION TRADES COUNCIL
and

CONTRACTOR
for the

PROJECT

DATE

**Building and Construction Trades Department,
AFL-CIO**

815 - 16th Street, N. W. • Washington, D.C. 20006

**Robert A. Georgine
President**

**Joseph F. Maloney
Secretary-Treasurer**



INTRODUCTION

The objective of this agreement is to provide a framework for cooperation between labor and management, and thereby to assist management and employees to avoid hazardous conditions and to comply with state and federal laws.

While most major construction companies have excellent programs which have proven effective, there are still those who have not adopted a formal program. Because building tradesmen travel from job to job and contractor to contractor, there is a need for a basic program that is standardized and easily understood. It must be fully supported by all employees and supervisors.

By adopting this basic program, contractors and building trades unions can demonstrate a willingness and ability to cooperate on a voluntary basis with sound construction practices.

LABOR/MANAGEMENT COOPERATIVE SAFETY AND HEALTH AGREEMENT

In order to assist in reducing occupational injuries and illnesses and to provide as far as possible a safe and healthful workplace for workers, the Contractor and the Building and Construction Trades Council, AFL-CIO agree to participate in a cooperative safety and health program.

The cooperative effort of a labor/management safety and health program is not intended to affect existing collective bargaining agreements; nor are the responsibilities and rights of the employer and the employees under the Occupational Safety and Health Act of 1970 to be abrogated or otherwise affected. In accordance with the requirements of OSHA, the employer continues to have exclusive responsibility to insure the safety and health of its employees and their compliance with such safety and health standards.

The labor/management safety and health program will operate in conjunction with the existing Contractor's safety and health program.

RESPONSIBILITY OF JOB-SITE MANAGEMENT

To comply with the General Provisions of Part 1926 Safety and Health Regulations for Construction, a senior member of management shall be assigned to initiate and maintain the jobsite Safety and Health Program and be responsible for the designation of competent persons as required by other subparts. *All individuals designated as competent persons are members of management with the authority to prevent and correct hazardous conditions.*

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COOPERATIVE LABOR/MANAGEMENT SAFETY AND HEALTH PROGRAM

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Article I: PRE-JOB CONFERENCE

The objective of the Pre-Job meeting is to establish and identify those responsible for initiating and maintaining the job-site safety and health program. The Contractor recognizes and agrees to the following:

- A. That under the Occupational Safety and Health Act of 1970, it is the exclusive responsibility of the contractor to insure the safety and health of its employees and compliance by them with all safety and health rules established by the employers and government agencies.
- B. That all contractors and sub-contractors will be required to comply with the general contractor's and owner's safety and health programs and all federal and state safety and health laws and rules.
- C. To designate a Senior Safety and Health Coordinator that reports directly to the project manager with authority to implement and enforce the provisions of this agreement.
- D. To require every contractor and sub-contractor to appoint a Safety and Health Coordinator. (Note: The Contractor Safety and Health Coordinator shall be a "competent person" who is capable of identifying existing and predictable hazards, and who has authority to take prompt corrective measures to eliminate them. OSHA Standard 1926.32f)
- E. To provide Safety and Health Coordinators for each phase of construction and for each shift.
- F. To establish and maintain a Job-Site Safety and Health program incorporating as a minimum those elements of Part II of this Agreement.
- G. To participate in an Oversight Committee described in Part V of this Agreement.
- H. To participate and require all contractors and subcontractors to participate in a Job-Site Cooperative Safety and Health Committee that meets on a regularly scheduled basis and has provisions for emergency meetings.
- I. That federal and/or state safety and health inspectors shall be allowed to enter and inspect the job-site in response to employee or union complaints alleging the existence of hazardous conditions. (Employees and unions will be encouraged to bring all complaints to supervisors prior to notifying government officials.)
- J. That employees shall not suffer any loss of pay as a result of time spent with government safety and health inspectors or on other jointly agreed to safety and health activities.
- K. That no employee shall be required to work under conditions or use any material or equipment that is/are unsafe, dangerous or hazardous to human life, health or limb.

Article I: PRE-JOB CONFERENCE (Continued)

- L. That no employee shall be instructed to perform in a manner that violates company policy or government rules intended to promote safety and health, nor be disciplined or suffer loss of wages for complying with company safety policy and/or government rules.

Article II: JOB-SITE SAFETY AND HEALTH PROGRAM ELEMENTS

The minimum program elements will include the following:

- A. A sign will be posted declaring that a Labor/Management Cooperative Safety and Health Program exists on the job-site.
- B. Smaller posters located throughout the job-site identifying name and location of:
 1. Project Senior Safety and Health Coordinator.
 2. Contractors and Sub-contractors Safety and Health Coordinators.
 3. Chief Craft Safety and Health Representative.
 4. Copy of Company Safety and Health program.
- C. Designation of Senior Safety and Health Coordinator:
 1. This individual, is to be designated by the Project Manager as a "competent person" and reports directly to the Project Manager, with authority to implement the Safety and Health Program.
 2. The Senior Safety and Health Coordinator will assist the Oversight Committee with reports and information needed by that Committee when they meet.
3. Qualified Safety and Health Personnel shall be assigned by the Contractors and Subcontractors as needed to cover specific or unique activities and shift work. All must meet the "competent person" criteria and company qualifications.

D. Recognition of Chief and Craft Safety and Health Representatives:

1. A Chief Representative is designated by the Building Trades Council as a working representative with authority to act on behalf of all employees regarding Safety and Health issues.
2. The Chief Representative will work closely with the Senior Safety and Health Coordinator in an effort to ensure that the employer resolves safety and health hazards prior to their development and in all training and education activities.
3. The Chief Representative will assist the Oversight Committee with reports and information needed by that Committee when they meet.
4. Craft Safety and Health Representatives will be designated by the local union for every craft working on the job-site.
 - a. Craft Representatives will observe work activities being carried

Article II: JOB-SITE SAFETY AND HEALTH PROGRAM ELEMENTS (Continued)

- out by their craft and report hazardous conditions to immediate supervisors.
- b. Craft Representatives will coordinate their activities with the Chief Safety and Health Representative and report all unresolved issues to the Chief Representative.
 5. The Chief and Craft Safety and Health Representatives will be working representatives and will be paid at their regular rate for safety and health activities.
- E. ALL new employees shall receive a job-site safety and health indoctrination that includes:
1. Explanation of contractor safety and health programs.
 2. Rights and responsibilities of employers and employees as provided by OSHA.
 3. Instruction on specific hazards related to type of construction project. Regular safety and health (tool box) meetings will be conducted to update and reinforce the job-site program.
- F. The Chief Representative and Craft Representatives do not assume the employers exclusive responsibility for providing a safe and healthful work place. Nor do the Council or Unions which designate such persons assume the employer's exclusive responsibility for providing a safe and healthful work place.

Article III: CONTRACTOR SAFETY AND HEALTH PROGRAM

The following are to be provided to the union safety and health representative:

- A. The Contractor's safety and health program to include:
 1. Company policy statement on safety and health establishing:
 - a. authority and responsibility of the owner's Construction Site Safety Department;
 - b. procedures for identifying hazardous conditions;
 - c. procedures for correcting hazardous conditions;
 - d. procedures for avoiding hazardous conditions;
 - e. special precautions for unusual or new operation.
 2. Training and Education Program and materials for:
 - a. all new hires (includes summary of standards and job-site program);
 - b. weekly safety and health meeting (tool box meetings);

ARTICLE III: CONTRACTOR SAFETY AND HEALTH PROGRAM (Continued)

- c. unusual or new operations; and
- d. recognition and avoidance of unsafe conditions.
- 3. Emergency procedures for:
 - a. accident;
 - b. fire.
- 4. Procedures for recordkeeping for:
 - a. frequent and regular inspections of job-site, materials and equipment, including name of person inspecting and extent of inspection;
 - b. insuring employees are identified by training or experience to operate equipment and machinery;
 - c. records documenting employee training and education;
 - d. injury and illness information;
 - e. a complete list of all present and anticipated hazardous/toxic substances on the job-site, including material safety data sheets for each;
 - f. identifying, recording, and notifying employees of hazardous materials in use, including area and personnel monitoring;
 - g. providing and maintaining personal protective equipment and safety equipment.
- B. A complete and updated list of all employers and anticipated employers on the job-site with a description of work to be performed by each employer.
- C. A summary of potential hazardous conditions, activities and substances associated or resulting from work to be performed by every employer on the job-site.
- D. An evaluation of the safety and health performance including: injury frequency rate, and OSHA citation record of all employers and potential employers performing work on the job-site.

Article IV: FUNCTIONS OF THE JOINT LABOR/MANAGEMENT SAFETY AND HEALTH COMMITTEE

Both Labor and Management will notify employees of the purpose and function of their joint safety and health committee. All new employees, upon arrival at the job-site, will be given a copy of the agreement and the company safety program. All information concerning the purpose, oper-

Article IV: FUNCTIONS OF THE JOINT LABOR/MANAGEMENT SAFETY AND HEALTH COMMITTEE (Continued)

ation, and results of the Committee's activities will be posted at the job-site for employees' review.

- A. The Labor/Management Committee members shall be employed at the site and be composed of an equal number of representatives from management and labor.
- B. Employee members are to be selected by the Building Trades Council with appropriate geographic jurisdiction.
- C. The Co-chairpersons of the Committee will be from Management and Labor.
- D. All Committee members shall be trained in construction hazard recognition and abatement techniques.
- E. The Committee will meet on a regular basis as determined by the Committee at their first meeting and shall establish provisions for emergency meetings in the event of fires, accidents, etc.
- F. The Committee will meet, at a minimum, bi-monthly to recommend changes or additions to work practices, rules, equipment, processes, or procedures in an attempt to reduce occupational injury and illness.
- G. A quorum of at least one-half of the Labor and Management representatives is required for each meeting. Minutes of all meetings will be taken and kept on file.
- H. Each month an inspection of the entire job-site will be conducted by at least one Management and one Labor Committee representative. A written report of inspection findings will be made and posted at the job-site. The Committee will recommend appropriate correction time for each hazard.
- I. All lost time injuries and near miss accidents will be investigated by the Company's safety and health personnel with reports submitted to the joint job-site committee.
- J. The Committee will review injury statistics, inspection results, accident investigation reports and complaint records to identify potential problems and seek resolution.
- K. The general contractor will maintain the following records and reports on all employees and employers on the job-site and make them available to Committee members and all employees.
 - 1. Monthly logs of injuries and illnesses.
 - 2. Monthly inspection results.
 - 3. Results of follow-up inspections.
 - 4. Minutes of bi-monthly Committee meetings.
 - 5. Results of all OSHA inspections including abatement procedures.
 - 6. Internal complaint log and abatement record.
 - 7. Results of all accidents or near miss investigations.

Article IV: FUNCTIONS OF THE JOINT LABOR/MANAGEMENT SAFETY AND HEALTH COMMITTEE (Continued)

- L. Committee members will not be discriminated against by any employer for carrying out their safety and health related functions.
- M. The Joint Labor/Management Safety and Health Committee acts in an advisory capacity only. The Committee's members do not assume the employers' exclusive responsibility for providing a safe and healthful workplace. Nor do the Council or the unions who designate the employee members of the Committee assume the employers' exclusive responsibility for providing a safe and healthful work place.

Article V: ESTABLISHMENT OF AN OVERSIGHT COMMITTEE

In order to assist the job-site Labor/Management Committee in properly performing its advisory functions, a Project Oversight Committee will be established between the general contractor and/or project owner and the building and construction trades council. The Oversight Committee will include the chief elected officer from the building trades council or a designee(s) that reports directly to that officer and the general contractor or his designee(s). Participating on the Oversight Committee as advisors will be representatives from contractor associations, OSHA officials and the owner or his designee(s).

While the Oversight Committee may be reviewing several sites at a time, it should schedule a review of each job-site a maximum of once every three months. The safety program will be reviewed to determine whether the program's administration and enforcement procedures are being carried out and to evaluate the effectiveness of safety and health inspections in the recognition and correction of hazardous conditions. Additional activities of the Oversight Committee include:

- A. Determine the number of members on the joint labor/management safety and health committee.
- B. Rotate craft representatives on the joint safety committee as the project progresses to ensure the major crafts have representation.
- C. Ensure that persons chosen to participate on the joint safety and health committee have been trained in the recognition, avoidance and prevention of safety and health hazards.

Article V: ESTABLISHMENT OF AN OVERSIGHT COMMITTEE (Continued)

- D. Make recommendations to the joint safety and health committee for consideration by the committee in its rendering of advice to the employers.
- E. Make additional recommendations as the Oversight Committee may wish.
- F. The Oversight Committee acts in an advisory capacity only. The Committee's members do not assume the employers' exclusive responsibility for providing a safe and healthful workplace. Nor does the Council which designates the employee member(s) of the Committee assume the employers' exclusive responsibility for providing a safe and healthful workplace.

Article VI: HAZARD IDENTIFICATION AND CORRECTION

The following procedures have been developed to assist employees in their efforts to protect themselves and others from hazards found on construction sites.

- A. Management safety and health personnel, under the supervision of the Project Manager will conduct daily, ongoing documented inspections. Any hazard found during these inspections will be brought to the immediate attention of the responsible craft foreman for correction. In addition, a written report of those hazards found will be submitted to the responsible contractor for follow-up and necessary corrective action.
- B. All complaints, follow-up inspections and abatement information shall be maintained by means of an internal safety and health log.
- C. Any employee who discovers a situation that poses danger to other employees or property is responsible for calling it to the attention of his foreman, management, safety personnel, or a member of the joint Labor/Management Safety Committee. This assures that others are aware of the hazard and that prompt corrective action can be instituted.
- D. None of the above procedures prevents an employee from filing a formal complaint with OSHA. However, all employees are encouraged to follow the hazard abatement procedures established by their employers.

Article VII: TERMS OF THE AGREEMENT

THIS AGREEMENT, WHEN SIGNED BY THE COMPANY ON BEHALF OF ITS CONTRACTORS AND SUB-CONTRACTORS, AND BY THE BUILDING AND CONSTRUCTION TRADES COUNCIL, AFL-CIO, HAVING GEOGRAPHIC JURISDICTION IN THE AREA WHERE THE PROJECT EXISTS, SHALL BE IN EFFECT FROM THE DATE SIGNED AND SHALL CONTINUE IN FULL FORCE UNTIL COMPLETION OF THE PROJECT UNLESS CHANGED OR TERMINATED AS PROVIDED IN THE FOLLOWING:

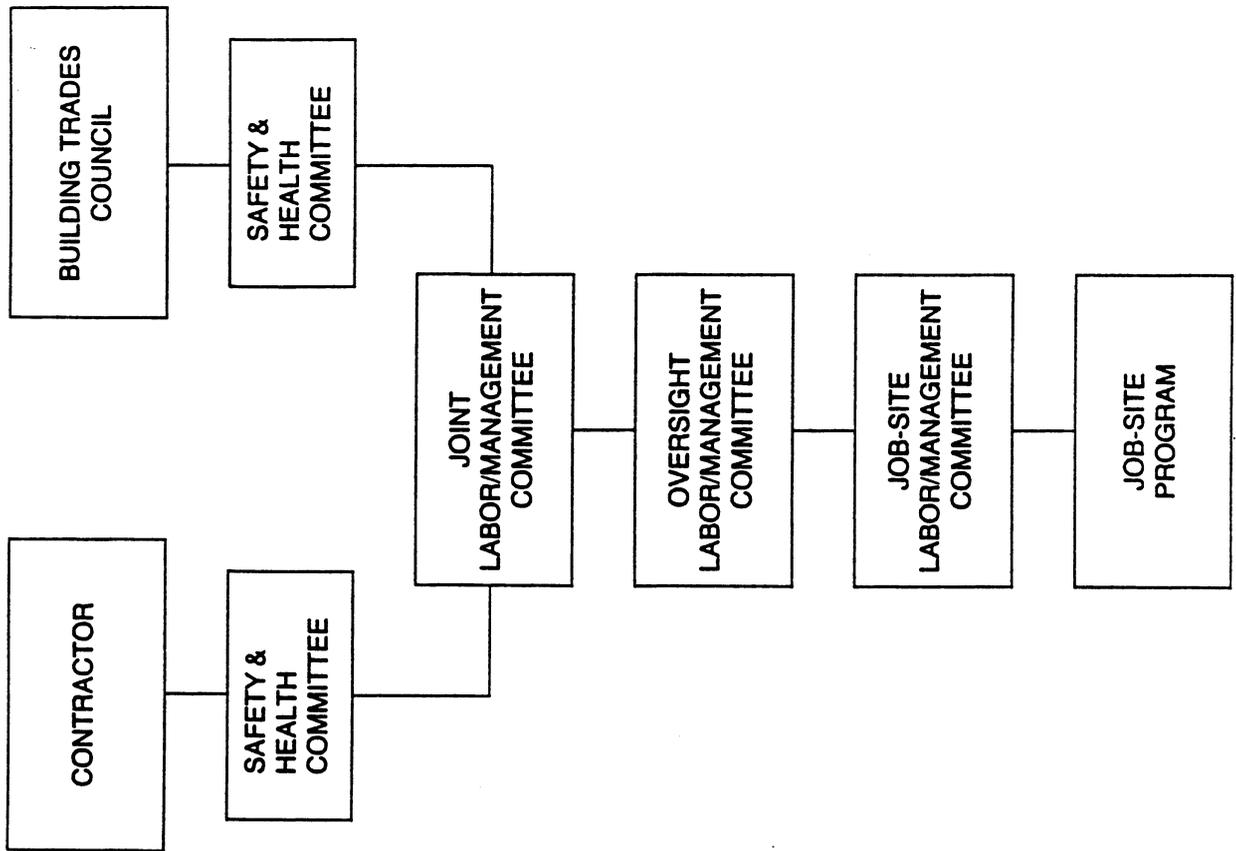
- A. Either party desiring to terminate this agreement must notify the other in writing at least thirty (30) days prior to doing so.
- B. The agreement shall not be amended or supplemented except by mutual consent of parties hereto reduced to writing and duly signed by each.

 Contractor

 Building and Construction
 Trades Council

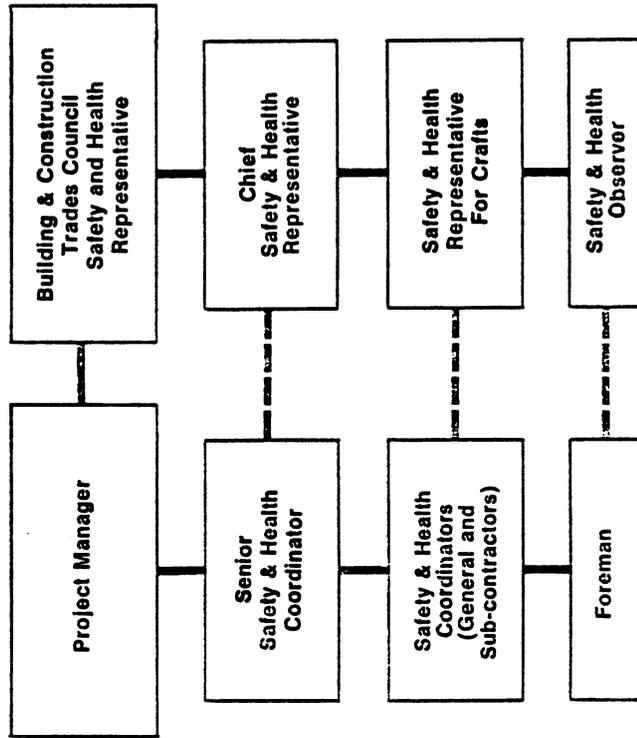
 Date

**LABOR/MANAGEMENT COOPERATIVE
 SAFETY AND HEALTH PROGRAM**



The Chief Representative, Representatives and Observers do not assume the employer's exclusive responsibility for providing a safe and healthful work place. Nor do the unions who designate such persons assume the employers' exclusive responsibility for providing a safe and healthful work place.

JOB SITE SAFETY & HEALTH PROGRAM STRUCTURE



JOB SITE LABOR/MANAGEMENT COMMITTEE

- Project Manager
- Senior Coordinator
- Coordinators (Sub-contractors)
- Building Trades Representative
- Chief Representative
- Representatives (craft)

Minimum Safety and Health Program for Contractors and Subcontractors Required on Every Job Site by Federal Law

- No Construction Worker will be required to perform work under conditions that are unsanitary, hazardous or dangerous to his safety or health—1926.10 (a)*
 - The employer shall initiate and maintain a job site safety and health program—1926.20 (b)(1)
 - There shall be frequent and regular inspections of the job sites, materials and equipment by competent persons designated by the employers—1926.20 (b)(2)
- [Competent Person means one who is capable of identifying existing and predictable hazards and who has authority to take prompt corrective measures to eliminate them—1926.32 (f)]
- The use of any machinery, tool, material or equipment which is not in compliance with safety standard is prohibited—1926.20 (b)(3)
 - All machines, tools, materials or equipment that do not comply with safety standards shall be identified by tagging, locking the controls, or be removed from the job site—1926.20 (b)(3)
 - Only employees qualified by training or experience may operate equipment and machinery—1926.20 (b)(4)
 - Every employee shall be instructed in the recognition and avoidance of unsafe conditions—1926.21 (b)(2)
 - Every employee shall be instructed in the safety and health regulations applicable to his work—1926.21 (b)(2)
 - The OSHA Poster must be posted with copies of the Act and OSHA Rules available to employees upon request—1903.2
 - A record of all injuries must be kept and posted at the job site—1904.5
 - All fatalities or accidents which result in hospitalization of five or more workers must be reported to OSHA Area Director—1904.8
 - Name and Location of nearest medical facilities must be posted—1926.50 (f)
 - An employee representative must be given the opportunity to participate in OSHA inspections, opening and closing conferences and all informal conferences—1903.8
 - All employees must be allowed access to exposure and medical records—1910.20

*Italic numbers refer to appropriate sections of OSHA Construction Industry Standards

URW/BFG cooperation improves safety and health program

The following article was written by Mr. Robert Kelley, Director of Safety with the BFGoodrich Company for the last 11 years.

Kelley, a resident of Akron, is a graduate of the Northeast University in Boston and has been with BFG for 26 years.

His article is testimonial to the growing relationship between labor and management that has been taking place over the past few years.

When Lou Beliczky, Director of Industrial Hygiene for the URW International, asked if I would write an article for *Safetylines*, I was really

the purpose of identifying the root cause in order to prevent an undesirable condition from occurring. We are steadily achieving that point in our Company where we are becoming pro-active in our approach rather than reactive.

At the same time, a much more cooperative relationship is continuing to develop between the Company and the Union. After all, worker safety and health is a mutual objective of both parties. It occurred to me that what better evidence of this cooperative attitude than to be invited to write an article in this Union's safety/health publication.



“We are steadily achieving that point in our Company where we are becoming pro-active in our approach rather than reactive.”

**— Robert Kelley, Director of Safety,
The BFGoodrich Company**

quite pleased and honored. To me this conveyed a belief that our Company, BFGoodrich was contributing in the field of worker safety and health through cooperation with the United Rubber Workers that was worth telling people about. Therefore, this article will try to share some of the background and activities in which we are involved concerning this matter.

BFGoodrich has placed an emphasis on safety and health matters for many, many years, in fact, long before the inception of the OSHA Act of 1970. This emphasis, however, has been brought into clearer focus and strengthened during the past decade.

The Rubber Workers have also placed an emphasis on worker safety and health for many years. Like the Company, however, early efforts by labor leadership in this area were often directed at correcting conditions. In other words, a “fix this/fix-that” approach.

Through time, a more “preventive” approach began to develop on the part of the Company and the Union. We began to ask ourselves why conditions were what they were with

Other than the company/union safety committee concept, which, as I indicated goes back many, many years, the first real significant breakthrough in this area came as a part of the 1970 uniform agreement. In that agreement, the URW and the BFGoodrich Company negotiated a Joint Occupational Health Program (JOHP) under which tripartite commitments were made between the parties and Harvard's School of Public Health for the purpose of conducting studies to examine the relationship that existed between the working environment and the health of employees. This effort proved to be very enlightening and contributed significantly to the sophistication and development of both parties in the field of worker safety and health. The JOHP was updated during master contract negotiations, being amended and extended in 1973 and each subsequent contract.

Perhaps it is appropriate at this point to interject a thought on the role that safety and health has played in the overall relationship between the parties. The early years of our history were marked by conflict and a lack of cooperation. Through time we are coming to realize that this kind of labor relations is foolish and self-destructive. An important element which has facilitated an overall common direction between the parties is a dedication to improving worker safety and health. This interest in people's welfare has evolved as a natural area to serve as a model for improved labor relations on an overall basis. Many evidences on a day-to-day basis, including peaceful and timely settlement at Master Negotiations in 1979 and 1982 demonstrate the favorable impact.

Going into the 1979 Master Contract negotiations, both The BFGoodrich Company and the URW realized that we did have at least one area where good solid ground was being laid. In this area our goals were essentially the same. It was an area where little or no confrontation occurred. This area was safety and health, and thus the URW/BFG health and safety conference concept was born.

In February 1979 in Brecksville, Ohio we, The BFGoodrich Company and

“The early years of our history were marked by conflict and a lack of cooperation. Through time we are coming to realize that this kind of labor relations is foolish and self-destructive.”

the URW, held our first Joint Conference on Worker Health and Safety. It was the first conference of this type in our industry and, to the best of my knowledge, the first conference of this type in *any* industry. It was this kind of joint effort that prevailed in the 1979 Negotiations and led to a settlement without a work stoppage for the first time since 1965.

Some major accomplishments were made in the area of safety and health during the 1979 negotiations. Provisions for the first full-time union safety and health representative at the plant level was established and the URW/BFG Health and Safety Program was designed to provide the following:

1. Provide for programs to increase awareness of all employees on matters relating to safe work practices, prevention of occupational disease, the use of personal safety protection devices and any other matters relating to the overall health and safety of the employees. Included was development of training programs for new or transferred employees on the safe and healthful work practices associated with the job and work environment/toxicity data regarding potential exposure to toxic chemicals.

“The real secret to a successful safety program at the plant level is employee involvement, both management and labor, and this is an area where we have been concentrating our efforts over the past several years.”

2. Provisions were made to employ consultants to conduct surveys and engineering studies geared towards identifying problems and pursuing solutions on safety and health matters in the individual plants.

3. To provide for Joint URW/BFG Health and Safety Seminars for company/union safety and health representatives.

4. To provide for professional training of union safety and health representatives. This includes attendance at training courses and seminars as approved by the joint committee.

The program now in place recognized that safety is the responsibility of *all* employees — not just management, not just the Union, but the total workforce.”

Under the program the parties have designed an organizational approach to direct worker health and safety activities at the International/Corporate level as well as the plant level. This structure provides for an ongoing agenda of activities at both levels. At the same time, local and headquarters people come together in combined activities on a regular, periodic basis to plan, provide direction, and share experiences from daily activities.

The annual Conference on Worker Health and Safety, the third of which takes place in Daytona Beach, Fla. this May, has been particularly rewarding.

It was during the second conference that we brought together the plant company and union safety and health representatives for the purpose of making joint presentations on selected areas of their involvement for the express purpose of sharing their experience and programs with

others. This conference, from all reports, was a great success and proved to be most productive and worthwhile.

During the 1982 Master Contract negotiations, the URW/BFG Health and Safety Program was modified to include the following in addition to the activities spelled out during the 1979 Agreement.

1. To provide for the implementation of a personal health surveillance program.

2. To design and implement off-the-job safety programs.

3. To establish a safety and health reference library at each of the local plants.

The Personal Health Surveillance Program which was offered to the URW members, proved to be successful and was well received at all of our plants involved.

The Off-the-Job Safety Programs have been introduced into our plants during 1982 and all the locations now have a professional safety and health reference library.

A unique and important element in the URW/BFG health and safety program structure is the full-time local union representative. Since establishment in 1979, special attention has been given to training. All our full-time union safety and health representatives have received introductory professional training at the International Loss Control Institute in Georgia. Some of them have received industrial hygiene training at Temple University in Philadelphia, which was a course being offered by the National Institute of Occupational Safety and Health. And all of them received advanced training in safety in February of this year at the International Loss Control Institute in Georgia.

The purpose and intent of the full-time Union Health and Safety Representative was to have an additional safety professional at the plant level, one who would work with his management counterpart in a combined effort to reduce accidents and illnesses in the workplace.

The real secret to a successful safety program at the plant level is employee involvement, both management and labor, and this is an area where we have been concentrating our efforts over the past several years.

Comprehensive safety programs have been introduced in our tire, chemical, and engineered products plants.

(Cont. on page 10)

These programs were a dramatic departure from past efforts in safety which treated safety as something separate and distinct from the production process. Safety has been interwoven into the management process along with such mainstays as productivity and quality.

The program now in place recognizes that safety is the responsibility of *all* employees — not just management, not just the Union,

but the total workforce.

Employee involvement programs have been introduced at the plant level such as shift safety teams which participate in housekeeping tours, job hazard analysis, safety meetings and accident investigation. Safety roles for all employees from the chief executive officer to the direct worker have been, or are in the process of being, developed which spells out the duties and obligations we all have in

this area of employee health and safety.

The bottom line of any safety program is the results attained. I will have to say that while we, both management and labor, have a ways to go with our program, we have made giant strides. During 1982 we reduced our OSHA incidence rate and lost workday incidence rate by eight percent for the six URW plants involved in the program. And because of the solid program we have developed over the years . . . one that reflects the cooperative efforts of BFG and the URW . . . I would hope that we can even improve on this figure in the years ahead.

Our program is an employee involvement program, one that continues to recognize that safety is the responsibility of all.

Safetylines would like to express its sincere appreciation and thanks to Mr. Bob Kelley for his contribution to this month's issue.

DC 37 Compliance Staff Report

How Does A Labor-Management Safety & Health Committee Work?

By JOLLY ROBINSON

"We thought we should try to clean up our own office buildings, since our job is to inspect buildings throughout the city." Blaise Parascandola, Deputy Commissioner of the NYC Buildings Department was talking about the work of the newly organized labor-management safety and health committee in his agency. The 1978-80 City-Wide Contract Occupational Safety and Health clause calls for the establishment of a Labor-Management Health and Safety Committee in each agency. Formed last November, the Buildings Department committee meets monthly and has initiated periodic safety and health inspections of Buildings Department offices and a program of cardio-pulmonary resuscitation (CPR) training for departmental personnel.

Jim Ducker, DC 37 Safety Director and labor member of this committee, says, "Having inspections with management representatives on hand to witness problems often works better than trying to process pieces of paper. The committee can recommend cost-effective ways to improve workplace conditions and, if capital expenditures must be incurred, details can be discussed then and there with engineers on the committee."

The committee services the safety and health needs of all six Buildings Department locations, employing more than 500 inspectors, engineers, archi-

fects, clerical and management personnel. Labor members represent the largest employee organizations--DC 37; Local 375 (Civil Service Technical Guild); Local 1180, Communications Workers of America (CWA), and Local 211, Int'l Union of Operating Engineers (IUOE). Management representatives are drawn from areas of technical expertise--inspectors, engineers, equipment and repair specialists, pest control, etc.--related to safety and health conditions in the agency sites.

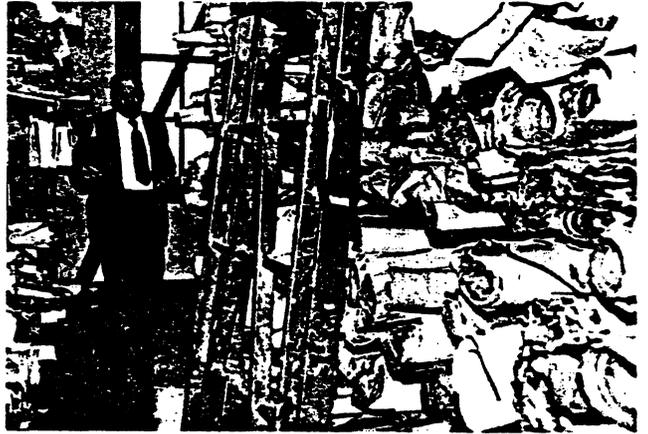
"The purpose of the committee," says Carrie Alston, DC 37 Safety Coordinator and committee member, "is to eliminate hazards, prevent accidents and illness, reduce the number of safety and health grievances, and find cost-effective ways of making improvements in the workplace. Management is involved in a joint effort to make periodic inspections to help bring about and maintain safer and healthier workplaces."

The labor-management safety and health committee meets once a month to report on previous activities and schedule inspections and other business for the coming month. Minutes are taken and sent to each committee member and alternate. Two subcommittees have been formed--one on Cardio-Pulmonary Resuscitation (CPR), and one on Site Safety Inspection. ■

How Is An Inspection Conducted?

For example, at the January inspection of the Bronx Borough Office, subcommittee member Joseph Walsh served as notetaker. During the building inspection, the six committee members toured each floor of the Borough Office, instructing the notetaker to record violations and hazardous conditions. Photographs were taken to document the committee's findings. They found peeling paint, loose ceiling tiles, roaches, a broken ladder, inadequate fire protection equipment, blocked passageways and other conditions needing correction.

Mr. Walsh distributed these findings in writing to each committee member prior to the next meeting. At that meeting, committee member Jack Grill, Head of Central Inspections, made the inspection report, and Chairperson Parascandola responded to the committee's findings by directing various staff personnel to involve appropriate City agencies in correcting problems under their jurisdiction. This procedure will be followed up at each meeting until the



Leonard Dwoskin, Sec'y Buildings Dept., and Safety & Health Committee member, notes hazardous conditions at Bronx Borough Office during safety and health inspection.

hazards have been corrected.

DC 37 Safety Compliance staff have been instrumental in reactivating the labor-management safety and health committee in the Buildings Department. Plans are underway to work with other City agencies in the same way until safety and health committees have been activated in each agency. ■

THE WORKER AS SAFETY INSPECTOR

by Matt Witt and Steve Early

Workplace enforcement committees in Sweden and Saskatchewan provide more health and safety with less red tape. This approach works because it gives workers training, government back-up, and real power.

Ten years after the creation of OSHA—the Occupational Safety and Health Administration—death, injury, or illness still come with the job for millions of American workers. While employers and their political allies mount an attack against OSHA's "over-regulation," more than five million work-related injuries are reported each year. One out of every four American workers faces known health hazards on the job, and a third of all cancer deaths may be caused, at least in part, by exposure to workplace substances. At least 14 million workers are exposed to noise levels that could damage their hearing and cause other health problems.

By increasing awareness of hazards and providing some muscle to support union efforts, OSHA may have kept the injury and illness toll from rising even higher, but it is clear that the agency's standard-setting and enforcement activities will never make a major dent in the problem. OSHA has only enough inspectors to visit each workplace an average of once every eighty years; average fines are less than \$60 per violation; standards to control the tens of thousands of toxic substances have been issued at the average rate of less than three per year.

OSHA, like other worker- or consumer-oriented agencies, is under attack from those who not only

have no enthusiasm for its methods but also are unconcerned about its goals. Business and the right wing want to abolish it and replace it with the old reliance on employers to eliminate hazards out of the goodness of their hearts.

At the same time, those who do share OSHA's goals—the labor movement, some health and safety professionals, and other activists—are also promoting a strategy that would place less reliance on the OSHA enforcement system. Ironically, both sides are using similar words to describe their vision, but they use them to mean very different things. Business says OSHA should stop "interfering in labor-management relations," and should let employers and workers solve their own problems—with employers holding all the information and power. Health and safety activists—such as some union staff members and the local coalitions known as Committees on Occupational Safety and Health, or COSH—also talk about resolving more disputes at the workplace level. But they argue that this will prevent hazards only if workers are allowed to play a central role. (See, for instance, "Sixty Million Inspectors," by Les Boden and David Wegman, in the May/June 1978 issue of *Working Papers*.) Changes that would implement one of these opposing views of workplace-based problem-solving are now being actively considered by Congress and by OSHA itself.

As this debate heats up, it is useful to look at the experience of other countries. In Sweden and in the

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Canadian province of Saskatchewan, legislation passed during the 1970s gave workers significantly greater power to affect health and safety conditions, and the results have been impressive.

The key to the system in both places is reliance on local labor-management health and safety committees, with access to necessary information and broad powers to demand improvements. Workers on the committees are trained so they can evaluate and propose plans for workplace changes. If consultation fails, workers can walk out of dangerous conditions without fear of reprisal. Government's effectiveness is increased because its resources can be used to encourage technological innovations, to set national standards, and to resolve disputes that cannot be handled locally.

For a number of reasons, statistical comparisons of accident records in various countries or even within a country are rarely valid. But those figures that are available show that Sweden has less than half as many injuries per worker each year as the United States, and that both the rate and severity of injuries and illnesses in Saskatchewan has declined since the committee system was started despite a contrary national trend and the steady growth of the province's labor force.

The Swedish system works like this: Under a 1974 law, every workplace with five or more employees must have at least one elected safety steward; in larger organizations there must be enough stewards to cover each work area on each shift. Every workplace with fifty or more employees must have a labor-management health and safety committee. More than half of the committee members must be elected by the nonsupervisory employees. About 90 percent of the Swedish workers are unionized, and the percentage is even higher in most of the more hazardous industries, so in practice the workers on the committee represent the local union.

In smaller workplaces workers may request formation of a committee, or a regional union representative can represent worker interests in cooperation with the elected safety stewards.

These union-dominated committees have the right to:

- Veto any plans for new machines, materials, or work processes for health and safety reasons.
- Decide how to spend the company health and safety budget, which is generally negotiated through local bargaining.
- Approve the selection and direct the work of the company doctor, nurse, safety engineer, or industrial hygienist.
- Review all corporate medical records, monitoring results, and other information on hazards.
- Shut down dangerous operations until the hazards can be corrected. (Individual workers also have that right.)

- Decide how much time they need to do their safety committee work, all of which must be paid for by the company.

Training for workers on the committees is paid for through a national Work Environment Fund, financed by a 0.1 percent payroll tax on all employers and guided by a labor-management board headed by a retired union president. In addition, individual employers pay lost-time wages for committee members during their training. Training is conducted by the unions, using materials developed by the unions themselves and jointly by labor-management safety councils. The Swedish government has complete responsibility for setting standards, maintains an inspection force, and provides technical assistance to the committees.

In Saskatchewan, under a law most recently updated in 1977, labor-management occupational health committees must be formed in every workplace with ten or more employees. Committees are made up of equal numbers of labor and management representatives. According to the law governing committee operations:

- Either side can call a meeting.
- Committee members can investigate working conditions wherever and whenever necessary, on company time.
- The committee has access to all records gathered or required by the government.
- The employer must notify the committee in writing of actions taken to abate hazards cited by the government.

New regulations expected to go into effect later this year will require employers to allow committee members "reasonable opportunity" during working hours to investigate safety and health concerns, meet with other workers, or conduct other committee business.

Training for committee members is provided by the provincial government, with employers paying lost-time wages. The government also sets standards, makes inspections, provides technical advice, and oversees committee operations.

All of this is in sharp contrast to the United States, where fewer than 10 percent of the workers are covered by health and safety committees. Here, workers cannot count on legal protection if they refuse unsafe work. There is no requirement that they be consulted before new processes or substances are introduced. If they request an OSHA inspection, employers can stall by forcing the agency to seek a warrant. If they have a representative accompany the inspector, that person must give up wages for the work time missed.

In short, the U.S. system is missing the three key worker rights that are present in Sweden and Saskatchewan: *the right to know, the right to participate, and the right to refuse.*

Worker participation means the local committees are concerned with the total work environment, not just compliance with narrow standards.

In both places, it is recognized that workers cannot play an active role in committee business without full access to the information available to employers. In Saskatchewan, workers on the committees actually conduct the necessary monitoring of exposure to toxic substances or noise, heat or cold, bad lighting, or other hazards. The provincial government provides training and equipment.

Terry Stevens, a steelworkers union staff member servicing Saskatchewan mining locals, gave an example of how this works:

The union committee co-chairmen in the uranium mines have been trained to use the testing equipment which tells you the amount of radioactivity in the dust in the mine. So they take regular readings and tests at drift headings or anywhere in the mine where the miners want tests taken. There's no waiting for an inspector or waiting for the company to get around to taking tests. If there's a problem, you find it immediately and that means it will be taken care of that much sooner.

Jennie Smyth, health and safety education director for the province, pointed out that the worker role in monitoring allows more efficient use of the government's limited industrial hygiene staff:

We have only three hygienists to cover the whole province, so the committees have to be our eyes and ears. They act as a screening device. The effect is that they extend our manpower considerably because we can spend less time measuring problems and more time discussing solutions.

The systems in Sweden and Saskatchewan also attempt to let committees participate in planning at an early stage, before accidents occur. In Sweden, all plans for new machines, materials, or work processes must be approved by the committee, although only from a health and safety point of view. Plans for new plants generally are reviewed by a safety representative from the union region before a building permit is issued. These procedures guarantee that workplace changes will be influenced by worker knowledge of hazards involved in current operations, and that worker concerns about the safety of new operations will be addressed before it becomes prohibitively expensive to alter the plans.

For example, at several forestry operations, union representatives on the safety committee were consulted on the company's choice of chain saw model. The committee looked beyond the productivity claims of the various manufacturers to consider data on noise, vibration, and "kickback" controls for each model. Workers tried out the dif-

ferent models to see which provided the safest handling. Only then did labor and management jointly decide which model to buy.

Throughout the Swedish wood products industry,* committees have insisted that pentachlorophenols not be used as wood preservatives. While research continues on the possible cancer-causing effects and reproductive damage caused by these chemicals, workers have made sure they will not be the guinea pigs and have forced the companies to find substitute methods for preserving the wood.

Similarly, workers at a logging company near Skinnskatteberg objected to the use of the herbicide 2,4D. The committee identified situations in which the company could afford to thin young forests manually with brush cutters instead, and that method was adopted.

One advantage to encouraging more worker participation is that local committees are more likely to be concerned with improving the total work environment and not merely physical "safety and health" in the narrow sense in which those words are commonly used in the United States. Committees in Sweden and Saskatchewan seem to be more aware that physical safety hazards, health hazards such as noise and chemical exposure, and stress from speed-up, heat or cold, or boredom often are not separate, unrelated problems. They are more likely to realize, for example, that noise, stress, or chemically induced headaches may contribute to accidents, and that stress over long periods of time is often a health hazard.

Soren Sundkvist, coordinator of training for committee members in the Swedish Metal Workers union, reported that such concerns are being raised throughout Swedish industry:

From the smaller questions of health and safety, the committees are moving to the big ones, the questions of how to prevent hazards before they have a chance to start, how personnel can be used most safely for a particular operation, how an area of the plant could be rebuilt to make the work less strenuous, what type of machinery the employer should be investing in.

There is a great deal of exchange of information in Sweden between plant-level committees and in-

* Many of our examples from Sweden are drawn from our study of the Swedish wood products industry. However, we have also observed that our conclusions apply to Swedish industry generally.

dustry-wide work environment research committees run jointly by labor and management and financed by the Work Environment Fund. The research groups include not only engineers, professors, doctors, and psychologists, but also representatives of the unions, employers, and equipment manufacturers. The Fund is now spending more than \$1 million on a program to teach Swedish union representatives to gather research ideas from local safety committees, evaluate proposals submitted to the industry research committees, and develop more proposals of their own. In contrast to the U.S. system, in which research is mainly distributed to other researchers, the Swedish groups' conclusions are being explained to the unions' regional safety representatives—at Work Environment Fund expense—and the representatives will, in turn, educate local committees.

The Fund also directly disseminates information to elected union representatives in every workplace. Research on workplace noise was used by the Fund as the basis for a 140-page workers' manual for reducing virtually every type of occupational noise hazard. A study of hazards in the car repair industry, which focused on the dangerous effects of solvents and other chemicals, was followed up with a health and safety guide mailed to 60,000 workers. A national magazine, *Work Environment*, is sent to 110,000 local union safety committee members and stewards.

In the wood products industry, worker involvement in decision making and research programs clearly has paid off.

Noise and dust. At the Anebyhus sawmill near Jonkoping, work environment researchers have helped the safety committee make dramatic improvements. Acoustical tile and a concrete-wood sound absorbant mixture are used on the ceiling and walls to reduce the spread of sound from conveyor belts. For purposes of both noise and dust control, saws are completely enclosed in housings the size of small rooms, which are entered only for maintenance. Saw blades at Anebyhus are chosen for the best design for noise control; adjustments in the angle of the teeth can mean a reduction of 5 decibels when cutting, 10 when idle, according to the research engineer who works with the committee.

It is so quiet that ear plugs are not needed in many areas of the mill, and one can actually talk over the sound of the machines. The mill is in complete compliance with the Swedish noise standard of 85 decibels, half as damaging to the ear as the 90

decibel level that is allowed in the United States.

It is so clean that no dust accumulates on the floor or equipment. Wood dust levels in the mill air are below one milligram per cubic meter. Enclosed booths for machine operators look like small offices, with comfortable seats and little or no vibration in the floor.

Accidents. Researchers didn't have to dig very far to find that slips and falls while climbing onto equipment are a major cause of injuries in forestry. Employers traditionally argued that the only answer to the problem was pep talks to encourage workers not to be so "careless." Ladders leading up to the cab were often either not provided or merely jerry-rigged, and thus easily broken. With some prodding from the committees and researchers, Swedish manufacturers have solved the problem. They now build into logging machines a set of hydraulic stairs that is raised and lowered automatically as the machine is turned on and off.

Stress. At the Ala Company sawmill, a booth in the trimming plant was constructed for use by two operators monitoring a conveyor belt. The two-person booth protected the workers from noise and dust without forcing them to spend an entire shift totally isolated from other people. The workers can talk and even listen to a radio. The operators' controls are embedded in the arms of their chairs, so that their arms are supported all day. The two men rotate with a third worker who is physically handling lumber on the belt, so that each operator is in the booth for forty minutes and outside it for twenty.

At a large, cooperatively-owned forestry company, schedules of eight hours' work plus a total of an hour for lunch and breaks have also been changed to reduce operator stress. Under the new system, each operator works three hours on the machine, three hours off it, and then three hours on.

Workers say that because of the three-hour break they can produce as much in six hours on the machine as in eight under the old system. One of the company's shifts begins three hours after the other, so the equipment is in use for twelve hours.

You can't keep cutting or bucking for an entire shift without getting tired and making mistakes," said one young worker. "It's bad for your health because of all the pressure, it's bad for safety, and it's bad for production."

Uncomfortable protective gear. Swedes, like workers all over the world, do not like to wear uncomfortable protective clothing. Researchers worked with

The mill is so quiet that earplugs are not needed, and one can actually talk over the sound of the machines.

safety committees to survey 2,000 loggers to find out their specific complaints. The workers said their hard hats were too heavy, eye protection blocked their vision, and ear muffs created too much pressure. Following the survey, equipment manufacturers were persuaded to design much more comfortable gear than is generally used in the United States.

A similar process of cooperation is occurring in some firms in Saskatchewan, although firms do not need formal committee approval for workplace changes. According to Peter Susa, safety committee member for the steelworkers union at Inter-Provincial Pipe and Steel's (IPSCO) basic steel mill, which employs more than 1,000 workers:

Management will come to us for suggestions—for example, if they want to use a new process for pouring steel—because we're the people who do the work and we know best how it can be done safely.

We can also stop them from putting something new into effect that might harm us. Like now at IPSCO, they want to melt down over a million and a half pounds worth of five-gallon cans that used to be used for pesticides they sprayed wheat with. Management sought the committee's approval for this and we insisted that they first do a study of the health impact of melting them down in the plant—what kind of fumes we'd be exposed to. We know there might be something wrong with them because they don't want to wash them off first out in the country where they've been collecting all these years. They said there would be a run-off problem.

Ten or fifteen years ago, if something like this was proposed, the company would have gone right ahead and done it—just melted them down—without consulting us and regardless of the effects.

Figures for all committee meetings conducted in the province from 1973 to 1977 show that in only 18 percent of the cases were no "concerns" raised. Of 55,000 concerns for which solutions were reported, 18,684 involved modification of new equipment and about 17,000 involved improved maintenance. Total concerns reported increased from 12,847 in 1976 to 15,317 in 1977.

Committees in Saskatchewan are encouraged by the government to raise issues dealing with stress and discomfort as well as accident prevention. The compilation of concerns raised by committees from 1973 to 1977 includes dozens in the categories of "repetitive work," "insufficient staff," and "speed of work."

The degree of incentive for managers to reach agreement with workers on health and safety issues depends, of course, on the remedies available to workers. The law in Sweden currently permits an individual worker to refuse dangerous work, and the union-dominated safety committee can stop unsafe operations. Their judgment prevails unless overruled by a government inspector. Even in that case, no worker can be punished for using that right unless

the action was taken in bad faith; the worker does not have to have been right about the danger. Swedish central labor confederation attorneys said they knew of no case in which a worker had been prosecuted for deliberate abuse of that right.

In both Sweden and Saskatchewan, the burden is on the employer to prove charges that a committee member abused his or her powers, and no disciplinary action goes into effect unless the employer can do so.

Since the right of safety committees to stop dangerous work was established in Sweden in 1974, use of it has required the intervention of government inspectors only about twenty-five times per year in the country's 160,000 workplaces. All parties interviewed agreed that this low figure was mainly a reflection of the effectiveness of the threat of using that power, and not a reflection of workers' reluctance to use it or of ignorance of their rights.

According to Bo Feldt, chief union safety committee member at the 12,000-worker Volvo plant at Göteborg:

We have over 200 safety stewards in the plant and their strength is in their ability to go to the foremen and say, "Do that or I stop the job." The foremen usually do it—whatever it is. If the men stop work, even if the government comes in and says work should continue, they can't be punished. But our experience has been that most of the stops have been correct stops.

In Saskatchewan, the right to refuse is held only by individual workers. Union committeemen are often involved in informally encouraging groups of individual workers to use that right together and in resolving the disputes that cause the refusal.

The worker or any member of the committee can call in an inspector to arbitrate. Provincial officials said that occurs in less than 5 percent of the cases. "The right to refuse has been underused rather than overused," says Jennie Smyth of the provincial safety division. "There have been many situations we hear of later in which people should have refused but were afraid to."

If an employer feels that the worker did not have "reasonable grounds" to believe the situation was "unusually dangerous," the employer must prove it before disciplinary action against the worker can be taken. The employee must receive normal pay and benefits until the issue is settled.

In Sweden, another new worker right that makes the system work is the requirement that selection of a company doctor, nurse, safety engineer, or industrial hygienist be approved by the joint committee. Those professionals then report to and take directions from the committee. Dr. Bertil Jonsson, doctor at the Ala Company sawmill, described his role this way:

The nurse and I work for the committee. They are our boss. It is part of our job not just to treat the patient but to recommend ways to change the work-

The employers don't want the embarrassment of a government inspector telling them the safety steward was right.

ing conditions so the health problem won't happen again. Of course, the committee is very interested in this. They are not just interested in reducing the pain after someone is already suffering.

In Saskatchewan, there is no requirement that a firm's health and safety professionals work at the committee's direction. But creation of committees has at least led to the hiring of professionals by many employers who previously didn't find them necessary. Gary Simons, industrial relations officer for the Potash Corporation of Saskatchewan, explained:

When we're talking about health and safety, we're not just talking about housekeeping now; we're talking about prevention. We have just recruited an industrial health nurse to work with the committee on prevention, and we will also be hiring a medical consultant to work on work environment problems.

Worker training is another key to a successful committee system. In both Sweden and Saskatchewan, paying for the cost of training worker members of the safety committees is considered a cost of doing business. Since 1974, more than 250,000 Swedish safety committee members, safety stewards, and others have taken a basic course called "Better Working Environment." The course is given during normal work time, and lasts twenty to forty hours or more, depending on the industry. Employer costs have totalled almost \$30 million per year. A report done for OSHA in 1977 estimated that public and private groups in the United States spent about that same amount of money annually for all types of job health and safety training, although the American workforce is twenty times larger than Sweden's.

The basic course covers not only such topics as noise control, ventilation, illumination, and toxic substances, but also job design and workplace planning, including specific details on how to read blueprints, and so forth. Advanced courses on each of these subjects are also provided to safety committee members.

The Fund-financed teaching of the courses is the responsibility of the unions. Trained "study circle" leaders, who generally are workers themselves rather than health and safety technicians, guide the discussions, although experts may be called in for consultation. A study circle graduate goes back to work with lists of conditions which must be corrected.

In Saskatchewan, workers are also given time off for safety committee training. The classes are

taught by educators from the provincial government. Introductory courses last two days, and are conducted in small groups of eight to twelve workers.

Though both have social democratic governments, Sweden and Saskatchewan still have capitalist economies, and even on the issue of health and safety they leave ultimate power in the hands of employers. Swedish law gives management the right to reject a committee recommendation if it can't afford the expense. (If imminent danger is involved, of course, workers can still protect themselves by walking off the job, and the committee may also ask the government to order management to comply.) According to Bo Tengberg, safety representative for the Swedish central labor confederation, "The big work-environment disagreements are not over *what* needs to be done, but *when*. In most cases, we don't have the power to make the employer act more quickly if he doesn't want to, if he claims he can't afford to do something right away."

But many employers in both Sweden and Saskatchewan admit that involvement of workers often produces innovations that are cheaper or at least no more costly in the long run, especially when lost time and workers' compensation are included in the equation. "In the past, we only worried about the work environment after a machine was built," said Ake Ullman, safety director for the Osa forestry equipment company. "Now we find we can discuss work environment ahead of time and put it right in at the design stage."

John Chobaniuk, plant manager at Westeel-Rosco's steel fabricating plant in Regina, Saskatchewan, initially opposed passage and then implementation of the provincial safety committee act. Now, he says, the committee helps him identify problems before they become serious:

The employees are the experts. They work in the plant eight hours a day, forty hours a week, so they're in the best position to know what's wrong. A lot of the items they've brought up are maintenance problems, problems we might not recognize otherwise. Maintenance problems relate very closely to safety because if they're not corrected they can become hazards. The guys out there see these things, and they want something done.

The experience of Sweden and Saskatchewan shows that local committees still need government to set standards, make inspections when necessary, and monitor

the committees' work. Government health and safety standards in both places are as detailed as in the United States, and government inspectors are used both as back-up and for certain sophisticated workplace monitoring. Employer cooperation with a committee may lead to less government presence in the workplace, and this does provide an incentive for both cooperation and flexibility. But in both places the systems depend upon the *possibility* of routine government supervision or of intervention if problems arise. A promise to reduce or eliminate enforcement in return for creation of committees would be simply a prescription for ineffective committees.

In Saskatchewan, where committees can deadlock, government inspectors are needed to resolve

impasses. John Chobaniuk made that point explicitly:

Previous to the occupational health act, there was a problem of trying to get management and the employees to sit down together. Now, we try to respond to the safety committee's complaints. If I don't listen, they go right to the Department of Labour inspectors. And that's when the sparks start to fly, so you don't want to let it reach that stage.

My absenteeism rate, accident rate and labor relations have never been better in this plant. And the reason is that I have to listen to people now. Before, they'd come back to my office to complain and I'd tell them to get back to work or quit.

Since Swedish committees provide workers with more independent powers, inspectors seem to be

WINDOW DRESSING IN AUSTRIA AND WEST GERMANY

The need to give local health and safety committees real powers and training is underscored by the experience of workers in such countries as West Germany and Austria, whose programs use some of the same rhetoric as those in Sweden and Saskatchewan but lack most of the features crucial for success.

In both West Germany and Austria, safety and health are among the issues handled by "works councils," committees at nearly every job site, which meet regularly with management to discuss all types of grievances. Both countries have national "right to work" laws under which about 60 percent of German workers and a somewhat lower percentage in Austria can choose to enjoy union representation without paying dues. Since the works councils are elected by *all* workers, the councils are independent from the unions except in workplaces with an unusually high percentage of union membership.

At large workplaces, there are regular meetings of health and safety committees, which consist mostly of company officials along with token worker representatives. In addition, each industry has a

labor-management "insurance institute" that is responsible for setting and enforcing standards and administering workers' compensation programs.

Despite these structures, which are supposedly a mechanism of "co-determination," workers seem to play little real role in hazard prevention. The local councils and committees have no autonomous powers, and workers involved in them do not get training in hazard prevention or in use of their rights.

Officials of the insurance institutes acknowledge that management is able to veto their operations. This means employers are able to determine how many inspectors are needed, what standards should be set, and so on. The government technically has the power to oversee institute policies, but in practice it refrains because the institutes are wrapped in the flag of labor-management cooperation.

An apparently typical example illustrates the results of the lack of training, committee powers, or government support: At a major sawmill near Nuremberg, West Germany, the works-council chairperson, Anton Blank, was unaware

that the law required his employer to consult before taking actions that could affect health and safety. The council's safety role, as far as he knew, was merely to investigate accidents and to enforce rules requiring the wearing of hardhats, safety shoes, and earmuffs. He said foot injuries from falling objects were common, and that safety shoes were the answer. Earmuffs were necessary, he said, because "the machines can't be designed to be more quiet."

Asked whether the government or the insurance institutes provided back-up for council safety demands, he said only that they occasionally answered the employer's request for technical advice. "If the company won't go along with something there is really nothing we can do," he said.

In the mill itself, safety hazards, noise, and dust were not being controlled through guards, enclosures, ventilation, or other standard design measures. Few workers even had ear muffs—despite deafening noise—and virtually no workers had hard hats or safety shoes, although some were working around stacks of poles loosely piled twenty-five feet high.

OSHA is under pressure to use committees to replace government enforcement rather than to supplement it.

needed less often to resolve disputes. As one metalworkers local committeeman said during a training class, "The employers are going to cooperate. They don't want the embarrassment of having an inspector come in and tell them the safety steward was right."

When committees are most active and effective, they improve the performance and efficiency of government inspectors. They free inspectors to spend more time on major issues rather than on monitoring, they give inspection agencies early warnings about problems, and they provide a check to make sure inspectors are doing their jobs properly.

Lars Eric Burstrom, a Swedish inspector, said:

Before we had trained stewards and committees, no one really challenged the inspector, right or wrong. Now, if an inspector does not take up a safety problem raised by a steward, the steward will appeal to the regional occupational safety and health board and, if necessary, to the national board. The inspector knows this can happen, so he's more careful to look for hazards very closely.

According to Saskatchewan's director of health and safety, Robert Sass:

Creation of a network of these committees around the province dramatically affected the relationship between workers and the inspectors. The inspectors have to be on their toes now. If the committee at a particular plant objects to an inspector's report, they won't sign it and that means it goes directly to me. When an inspector shows up to make an inspection, the workers expect him to have read and be guided by the most recent safety committee minutes that were sent to him.

At each meeting, committees in Saskatchewan must fill out a simple, one-page form listing problems discussed and decisions made. The forms are kept short to lessen the paperwork burden and to increase the chances that the inspectors will have time to read them. The forms are then submitted to the provincial health and safety division. Provincial officials said this allows them to target their inspections better and to be better informed before they make an inspection. Inspectors are assigned a particular set of workplaces so they can follow progress made over a period of years.

Of 80,000 concerns reported by committees on these forms between 1973 and 1977, only 329 cases required government intervention, and only about 1,400 resulted in the involvement of higher management officials. The government received 538 requests for technical advice during 1977, up from 118 requests in 1976.

If government inspectors issue orders for hazard correction, management must provide the committee with a written statement of action taken to comply. This procedure frees government personnel from making many follow-up inspections.

During the past four years, OSHA has had top officials who are familiar with and approve of the approach followed in Sweden and Saskatchewan. With the support of activists in the labor movement, they have created a program that gives grants to unions and public interest groups to train local union health and safety committee members and other interested workers. They have issued a new regulation which would require employers to share health and safety records with workers. (That rule is now facing a possibly lengthy court challenge by the U.S. Chamber of Commerce.) They tried to give worker representatives the right to be paid while accompanying OSHA inspectors, only to have that regulation struck down by the courts.

In the past year, discussion of health and safety committees has intensified. President Carter issued an executive order to encourage committees in federal agencies. OSHA approved an experiment in California in which the builder of a nuclear power plant was guaranteed that there would be no OSHA inspections in return for setting up a labor-management committee, although the committee was merely a mechanism for discussion and had no powers. Senator Richard Schweiker has introduced a "gut-OSHA" bill that promises a ban on inspections or a reduction in possible fines for many companies with committees. Schweiker's bill would give the committees no powers and would actually penalize unions that have already bargained for committees with the expectation that government inspections and penalties would still be available to back them up.

Both to ward off congressional attacks and to encourage worker participation, OSHA would like to move forward with more experiments to foster committees. But it faces difficult obstacles. Ronald Reagan would be more inclined to abolish the agency than to help it launch new initiatives. If a rightward-moving Jimmy Carter is re-elected, he cannot be counted on to appoint progressives to replace those who have headed OSHA for the last four years and who now talk openly about leaving at the end of Carter's first term. The California experiment and the Schweiker bill are indicative of the pressure on OSHA to take the backward step of

encouraging committees as a *replacement* for government enforcement, rather than a supplement to it. The experience in Sweden and Saskatchewan suggests an approach to regulation that protects workers by empowering them, rather than entrusting their protection solely to government inspectors. For this approach to succeed, the workplace committees must have real powers. And their ultimate effectiveness also depends on keeping government in the picture.

A final obstacle is that only 20 percent of American workers are organized into unions, a significantly lower percentage than in Sweden or Saskatchewan. Without the structure of collective bargaining to support them with protection against all kinds of discrimination, manipulation, and discipline, it is hard to imagine non-union workers taking on the boss successfully on the issue of health and safety. Many unionized workers do not have strong committees or any committees at all, and union members are concentrated in the most hazardous industries, so an OSHA program for union-related committees would still have con-

siderable impact. But for most American workers, effective use of a legislated health and safety program will come only after they decide that what they really need is a union. ■

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How To Set Up A Health And Safety Committee

An active health and safety committee can help make an accident and illness prevention program work. In addition, the committee can keep on top of job hazards at the worksite day in and day out and eliminate those hazards before they cause injury or illness, and before anyone needs to call the Division of Occupational Safety and Health to make a complaint about an unsafe or unhealthful condition.

A health and safety committee should be small enough to be able to meet to discuss problems and large enough to cover the various shifts and work crews. Ideally, the committee should be composed of representatives of both labor and management, or of workers who meet regularly with management representatives. Even if an employer does not participate in a health and safety committee, employees can create and participate in a health and safety committee. However, a joint labor/management committee whose recommendations are respected and acted on by the employer and which works cooperatively with the employer is most likely to be effective.

The law prevents an employer from punishing an employee in any way for the employee's participation in job safety and health activities such as:

- o establishing a workplace health and safety committee
 - o participating in a workplace health and safety committee
 - o complaining to the employer, a union, CAL/OSHA, or any other government agency about job safety and health hazards
 - o filing safety or health grievances
 - o participating in CAL/OSHA inspections, conferences, hearings, or other CAL/OSHA-related activities.
- In order to receive cooperation from workers, a health and safety committee has to demonstrate that it is effective in preventing injury and illness, and that the employer listens to and acts on committee recommendations for elimination of hazardous work conditions.
- Things a health and safety committee can do:**
1. Monitor general worksite conditions and carefully watch particularly hazardous areas by making regular jobsite inspections as well as spot inspections in response to worker complaints. As part of monitoring general worksite conditions, watch for these common hazards:
 - fumes and vapors
 - dust in the air
 - excessive heat or cold
 - excessive noise or vibration
 - spilled or leaking chemicals, or improperly stored chemicals or toxic substances
 - radiation
 - improper hand-lifting of heavy material
 - unguarded machinery, or machinery or equipment that needs to be repaired
 - lack of emergency exits, or failure to clearly mark an emergency exit
 - poor lighting
 - electrical hazards
 - incorrect handling of flammable substances, explosives, or chemicals
 - high lost-workday absences and injuries and illnesses associated with a certain operation or area of the worksite
 - poor work practices which do not allow sufficient time for workers to do a particular job or cause excessive fatigue or stress for workers
 - poor housekeeping, failure to keep aisles, walkways, stairs, ladders, etc. clean

OVER



Other things to look at:

- are the areas for eating, washing, and resting effectively isolated from work areas where there are hazardous substances?
- do qualified personnel use the right equipment to measure hazardous substances?
- does the employer provide pre-employment and regular medical examinations for employees?
- does the employer provide training about job hazards and control of hazards as well as emergency procedures for workers?

Try to work first with management to correct worksite hazards whenever possible. Immediately notify the employer whenever any dangerous hazard exists and get the employees affected away from the area until the hazard has been eliminated.

2. Investigate any accidents or work-related illness to try to determine how to prevent future occurrences.
 3. Participate with management in discussions concerning plant expansion, the use of new machines or processes or substances or chemicals in order to determine what, if any, hazards they may create and how these potential hazards can be most effectively controlled or eliminated.
- CAL/OSHA requires employers to control hazardous or potentially hazardous conditions by using:
- o **ENGINEERING CONTROLS**—changes in the workplace such as isolating an operation, installing better ventilation, or changing an operation to substitute a different material for a toxic substance.

o **ADMINISTRATIVE CONTROLS**—changes in work procedures and practices such as limiting the amount of time during a shift that a worker does a particular job or works with a particular material; or rotating workers in and out of the most dangerous jobs to limit exposure to any worker while a permanent engineering control to the problem is being developed and installed.

o **PERSONAL PROTECTIVE EQUIPMENT**—CAL/OSHA expects the employer to redesign the workplace or work procedures to eliminate any hazard. As a last resort or while these controls are being implemented, the employer must provide personal protective equipment such as respirators to ensure employees against hazardous exposure. This equipment should be used by workers only in an emergency, while engineering controls are being installed, or after engineering and administrative controls have been implemented and are not adequate to prevent employee exposure to potentially harmful substances.

4. If there are serious health or safety problems which may require technical advice to correct, inform the employer that the CAL/OSHA Consultation Service may be able to provide this advice through an on-site consultation.
5. Develop or assist the employer in developing safety and health training and information programs to educate employees about job hazards and how to prevent injury and illness on the job. See OSH Resources page 5.

6. CAL/OSHA law allows workers to have access to their employer's health and safety records such as injury and illness reports, the employer's Log of Occupational Injuries and Illnesses (these records only need to be kept by an employer who has 11 or more employees), and information about dangerous substances used in the workplace (such as that contained in Material Safety Data Sheets distributed by some manufacturers for their products).

7. Keep written records of anything that happens or is done which affects worker health and safety on the job such as: committee meetings, meetings with management, contact with CAL/OSHA or DOSH, worker complaints or grievances, work-related accidents or illnesses. This kind of recordkeeping will help monitor workplace conditions, and speed progress in eliminating unsafe procedures or conditions and patterns of injury or illness. Keep these records either at work, a union hall, or someone's home.

8. If the Division cites the employer for a violation of occupational safety and health standards, make sure that the employer corrects the violation by the abatement date and that if equipment is installed to correct the violation, that it is used and maintained and effective in eliminating or controlling the hazard described in the citation.

If you have knowledge and/or evidence that the employer has not followed through and corrected the problem within the time allowed, notify the Division.

An effective health and safety committee will hold frequent, open meetings at a convenient time and place. A workplace bulletin board can be used to alert all workers to safety and health information. □