

IUE-CWA Health & Safety

Leadership Guide 2020

IUE-CWA Health & Safety

Leadership Guide 2020

Objective

As a Union Leader you may be confronted by members who are affected daily with health and safety issues. These hazards range from exposure to noise, toxic chemicals, and unguarded machinery, to problems associated with the work organization and work restructuring: understaffing, mandatory overtime, stress and fatigue. In addition, workplaces often lack comprehensive worksite health and safety programs aimed at identifying and eliminating hazards.

Being a good union leader depends on your knowledge of your rights and how to use them. It is also about using your experience within the workplace and having the support of your members. With the right approach, some basic skills, knowledge and organization you can become very effective.

Understanding your rights and how to use them will help you to ensure that your employer safeguards the health, safety and welfare of the members who you represent. It is your employer's responsibility to manage health and safety. Your role is to make sure that management fully complies with its obligations, through cooperation, discussion, and negotiation with you on behalf of your members.

As an IUE-CWA union leader, you know that leading, organizing, and building your local is complex. Whether you are the Local President or a member of the Local Executive Board, Bargaining Committee, or Political Committee, there is a great deal to know and understand. This section of the book is designed to be used as a reference resource; it does not contain detail on every aspect of health and safety, or address all of the problems that you will face in trying to achieve the highest standards of health and safety possible within your workplaces.

This guide is a basic overview of the facts and tools necessary to address your health and safety concerns, including concepts and methods to develop and maintain an effective Occupational Health and Safety Committee.

There are 2 basic types of health and safety committees:

1. Local - composed exclusively of union members
2. Joint - composed of representatives from union and management.

Both types can be significant in efforts to improve workplace safety; yet your resources may limit your ability to have both a local union only and joint health and safety committee. IUE-CWA Local Leaders are encouraged to establish at minimum a joint labor-management health and safety committee with each business they represent.

Table of Contents

- I. Key elements of a Health and Safety Committee**
 - A. Purpose of a Health and Safety Committee
 - B. Who Serves on the Health and Safety Committee
 - C. Roles of the Health and Safety Committee
 - D. Membership Inclusion
 - E. Promoting Health and Safety Through Bargaining

- II. Hazard Recognition**
 - A. Recognizing Health Hazards
 - B. Recognizing Safety Hazards
 - C. Basics of Incident and Near Miss Investigations
 - D. Hazard Controls

- III. Worker Rights and Responsibilities under the Occupational Health and Safety Act of 1970**
 - A. Worker Rights and Responsibilities
 - B. State Plans

- IV. Resources**
 - A. Sample Health and Safety Complaint Form
 - B. Local Safety Committees Actions
 - C. Local Safety Committee Support
 - D. Local Safety Committees Resources
 - E. Joint Union-Management Health and Safety Committee
 - F. Sample Health and Safety Meeting Planning Checklist
 - G. Prepare an Agenda
 - H. Sample Health and Safety Meeting Agenda Topics
 - I. Sample Health and Safety Meeting Agenda
 - J. Sample Issue Log
 - K. Sample Health and Safety Meeting Agenda
 - L. Sample Health and Safety Meeting Action Plan
 - M. Sample Health and Safety Meeting Evaluation
 - N. Recordkeeping Tool: Formulas for Calculating Rates
 - O. Planning Your Health and Safety Inspections
 - P. Sample Safety Walk-thru Inspection Checklist
 - Q. Sample Safety Inspection Checklist
 - R. Health and Safety Assessment Example

I. KEY ELEMENTS OF A HEALTH AND SAFETY COMMITTEE

A. Purpose of a Health and Safety Committee

The safety and health committee can provide a means of improving workplace conditions. A joint committee provides a blueprint for workers and management to work together to solve health and safety concerns. Active committees will engage the workplace on recognizing hazards and developing strategies of abatement. In addition, the committee performs essential monitoring, facilitates health and safety education, and conducts investigations.

B. Who Serves on the Health and Safety Committee?

Members of the committee depend on the local's specific situation. Amalgamated locals may choose members representing each employer with whom the union has a contract. If the local is working with only one employer, the committee is often comprised of members of different departments and/or shifts. Some local unions include a local negotiating team representative, a local union officer, and/or a community group representative.

Each Local is asked to choose one person to be the lead safety representative to act as the committee contact and action coordinator. When selecting people to serve on your Local's committee, consider members who can help carry out the committee's purpose and mission—responsible, extroverted members who are willing to learn how to best protect the interests of their fellow workers and who display a willingness to ensure that management is living up to its legal responsibilities.

C. Roles of the Health and Safety Committee

The following is a list of some possible roles of a health and safety committee:

- Conduct routine inspections to identify potential health and safety hazards.
- Identify appropriate measures to eliminate or control hazards and problems
- Develop effective union strategies for improving conditions
- Evaluate the effectiveness of control measures put in place
- Review injury data, inspection reports, and workers' compensation reports.
- Communicate with and educate union leadership and membership and build member involvement in the union's health and safety efforts.

D. Membership Inclusion

Members have a stake in the success of the company's safety management system. Health and safety can affect business sustainability and member's future. Involved members are motivated to speak up if they see something or experience a situation, therefore expanding hazard recognition. This additional support and attention to details increases the health and safety committees' actions, thus creating a healthier and safer workplace.

E. Promote Health and Safety Through Bargaining:

Bargaining for health and safety can produce important contract language and furnish the union with significant leverage over day-to-day working conditions.

Why negotiate health & safety language?

Contract language alone will not make a workplace safe; however, bargaining for health and safety language can play a vital role in a comprehensive program to eliminate hazards. IUE-CWA represented members shouldn't have to rely on a government agency to protect them. Since hazards exist in every worksite, their local collective agreement should deliver guarantees and well-designed programs.

Safety written into a union contract can be specific to members' jobs, stricter than legal requirements, can guard against weakening of the law, and can provide a grievance process which is typically a faster and more effective method of enforcement. For some public-sector workers, contract language may be their only protection regarding occupational safety and health. Contract language can establish a stronger "right to refuse" unsafe work and stronger protection from discrimination for exercising a safety and health right than OSHA or state law.

A contract can establish a procedure for reporting and documenting – safety and health complaints. Contract language can cover safety and health hazards that are not regulated by OSHA. A contract can mandate safety stewards or a joint labor-management safety and health committee.

Key Standards for Collective Bargaining:

- 1) Negotiate language giving the Union permissive power to exercise control on matters of employee health and safety. For example, the union "may" (not "shall" or "must") inspect all workplaces. Use of permissive language such as "may," rather than obligatory language such as "shall" or "must," negates any inference that the union is obligated to perform a function that would otherwise be the employer's and eliminates the argument that any contractual duty of fair representation was created.
- 2) Negotiate protective provisions that clearly emphasize the employer's responsibility for ensuring a safe and healthful workplace, while maintaining the issue as a subject for bargaining and other union activity. An example of such a protective clause is the duty of care set forth in the OSH Act, Section 5(a)(1) which obligates the employer to "furnish to each of his employees employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious physical harm."
- 3) Negotiate contractual language obligating the employer to furnish the union with periodic reports about specific areas of concern, and/or to afford the union periodic inspection opportunities, of either work sites generally or particular locations with known hazardous conditions, and/or of equipment, tools or other means of performing the job that have health and safety implications.
- 4) Negotiate contractual language obligating the employer to train workers about particular hazards or dangerous conditions. Include a role for the union in this training that is advisory and discretionary, but nonetheless keeps the union's representatives involved in the process.

The union should also take employee complaints about workplace safety seriously, regardless of any defenses it might have to duty of fair representation claims. The

grievance process may provide an effective avenue for raising such issues, along with complaints to outside agencies. The more pressure placed on an employer to comply with acceptable safety standards, the less risk of incidents. Ultimately, aggressive expressions of union concern about these issues will benefit every employee and can also serve as an example for organizing and mobilization in other settings.

For a Health and Safety Committee to make recommendations, it must be aware of any hazards in the workplace. A wide variety of techniques can be used, including workplace inspections, hazard assessments, monitoring and reviews of written records.

Upon request, the IUE-CWA Health & Safety Coordinator will provide support with factsheets, standards, regulations, and other resources.

II. HAZARD RECOGNITION

A. Recognizing Health Hazards

Health hazards, exposure to toxic substances and physical agents, may be more difficult to identify than safety hazards in many cases. It often takes many years from initial exposure to the time when effects become obvious. Therefore, safety committees should become knowledgeable in good health hazard recognition techniques.

The best method of recognition is to closely observe the work processes at the job site. Talk to workers at the job site to ascertain whether there are any health hazards. Review the employer's OSHA records to learn of any occupational diseases; in particular, obtain copies of OSHA Form 300 and copies of any OSHA inspections. In addition, request copies of any NIOSH industrial hygiene surveys and exposure studies which the employer may have conducted. (If the employer does not have copies of OSHA and NIOSH surveys, request this information from the respective agency.)

Some questions a health and safety committee may want to ask:

- As part of your job do you visit customers' premises which may contain unknown dangers (e.g., laboratories, foundries, chemical plants, nuclear power plants, etc.)?
- If you feel a customer's workplace is unsafe, will you be provided personal protective equipment if needed? If not, would you request another assignment until the work location can be made safe?
- Are personal protective devices required at your workplace? Are they carefully selected and well maintained?
- Do you use tools that vibrate or that require an uncomfortable hand, wrist, arm, shoulder, or body position?
- Is your workplace unnecessarily hot or cold?
- Do you work with chemicals or other hazardous substances? Do you know what they are and their hazardous properties? Do you know what precautions should be taken with them?
- Is proper ventilation provided in areas where chemicals are used?
- Are there gases, vapors, and dust in the workplace? Do you know the source?
- Are there gases and vapors in the area in which you work that may cause narcotic effects, dizziness, nausea, slower reaction time, etc.?
- Is machinery, tools, or equipment excessively noisy?
- If you use a headset, do you suffer from frequent noise blasts or static which hurts your ears?
- Have members employed in visually fatiguing jobs involving computer use complained of eye strain?
- Has anyone ever mentioned suffering skin or upper respiratory reactions?
- Employers may be required to give blood lead level tests to workers who encounter lead on their jobs. Has anyone been removed from their job because of high blood lead levels?
- Have workers been complaining of similar health problems? Does there seem to be a pattern of health problems that warrants further investigation?

B. Recognizing Safety Hazards

Recognizing safety hazards is a primary function of the Local or Joint Health and Safety Committee. Union members and safety committee members should be able to recognize safety hazards and work to have management correct them. By accessing the employer-kept injury log and workers' compensation reports, committee members can familiarize themselves with the range of hazards encountered by members.

Safety Considerations

Some questions a health and safety committee may want to ask:

- Are electrical appliances and equipment properly grounded & insulated?
- Are all belts, wheels, fans, and other moving parts adequately guarded?
- Are all hand tools and all electrical equipment in good working condition?
- Are trucks and cars in good working condition, e.g., are brakes, lights, seat belts, engines in proper working order?
- Is vehicle maintenance easily obtainable?
- Are floor surfaces clean, dry, and free of debris and tools?
- Are you familiar with the correct way to use ladders?
- Are emergency exits clearly marked and visible?
- Are there adequate rights-of-way leading to exits?
- Are stairways accessible and in good condition?
- Are storage cabinets set so drawers or doors do not open into walkways?
- Is your area prepared with a stool or ladder to safely access high objects?
- Does the lighting in offices provide adequate illumination?
- Do you know where fire extinguishers are and how to use them?
- Do you know where fire alarms are and whether they alert the fire dept.?
- Are you familiar with basic first aid procedures in case of an emergency?

C. Incident & Near Miss Investigations

As little time as possible should be lost between the time of an incident or near miss and the beginning of the investigation. In this way, one is most likely to be able to observe the conditions as they were at the time, prevent disturbance of evidence, and identify witnesses. The tools that members of the investigating team may need (pencil, paper, camera, film, camera flash, tape measure, etc.) should be immediately available so that no time is wasted.

The investigation process involves the following steps:

- Possible first aid and medical care to injured person(s)
- Investigate the incident or near miss
- Identify the causes
- Report the findings
- Develop a plan for corrective action
- Implement the plan
- Evaluate the effectiveness of the corrective action
- Make changes for continuous improvement

The Investigating Task

Here the actual work procedure being used at the time of the occurrence is explored. Members of the investigation team will look for answers to questions such as:

- Was a safe work procedure used?
- Had conditions changed to make the normal procedure unsafe?
- Were the appropriate tools and materials available?
- Were safety devices used and working properly?

An important follow-up question is, "What caused or allowed it to" happen?

Possible questions to ask referencing equipment or materials used:

- Was there an equipment failure?
- Was the machinery poorly designed?
- Were hazardous substances involved?
- Were they clearly identified?
- Was a less hazardous alternative substance possible and available?
- Was the raw material substandard in some way?
- Should personal protective equipment (PPE) have been used?

Again, each time the answer reveals an unsafe condition, the investigator must ask, "What caused or allowed it to" happen or exist?

Environment

The physical environments, and especially sudden changes to that environment, are factors that need to be identified. The situation at the time of the occurrence is what is important, not what the "usual" conditions were. For example, accident investigators may want to know:

- What were the weather conditions? Was it too hot or too cold?
- Was poor housekeeping a problem?
- Was noise a problem? Was there adequate light?
- Were toxic or hazardous gases, dusts, or fumes present?

Worker

The physical and mental condition of those individuals directly involved in the event must be explored. The purpose for investigating the accident is **not** to establish blame against someone but the inquiry will not be complete unless personal characteristics are considered. Some factors will remain essentially constant while others may vary from day to day:

- Were workers experienced in the work being done?
- Had they been adequately trained?
- Can they physically do the work?
- Were they on an excessive amount of mandatory overtime?

Workplace Organization

Management holds the legal duty for the safety of the workplace, and therefore the role of supervisors and higher management and the role or presence of management systems must always be considered in an incident or near miss investigation. Failures of management systems are often found to be direct or indirect factors.

Ask questions such as:

- Were health and safety rules communicated to and understood by all?
- Were written procedures and orientation available?
- Were workers trained to do the work?
- Had hazards been previously identified?
- Had procedures been developed to overcome them?
- Was regular maintenance of equipment carried out?
- Were regular safety inspections carried out?

This model of investigations provides a guide for uncovering all possible causes and reduces the likelihood of looking at facts in isolation. Some auditors may prefer to place some of the sample questions in different categories; however, the categories are not important, if each pertinent question is asked. Clearly, there is considerable overlap between categories; this reflects the situation in real life. Again, it should be emphasized that the above sample questions do not make up a complete checklist.

How are the facts collected?

The steps in investigation are simple: the investigators gather information, analyze it, draw conclusions, and make recommendations. Although the procedures are straightforward, each step can have its pitfalls. An open mind is necessary in an incident or near miss investigation; preconceived notions may result in some wrong paths being followed while leaving some significant facts uncovered. All possible causes should be considered. Making notes of ideas as they occur is a good practice, but conclusions should not be drawn until all the information is gathered.

Physical Evidence

Before attempting to gather information, examine the site for a quick overview, take steps to preserve evidence, and identify all witnesses. Physical evidence is probably the most non-controversial information available. It is also subject to rapid change or obliteration, and therefore should be the first to be recorded. Based on knowledge of the work process, investigators may want to check items such as:

- | | |
|-------------------------------------|-----------------------------|
| • positions of injured workers | • damage to equipment |
| • equipment being used | • housekeeping of area |
| • materials or chemicals being used | • weather conditions |
| • safety devices in use | • lighting and noise levels |
| • position of appropriate guards | • time of day |

Injured workers(s)

The most important immediate tasks--rescue operations, medical treatment of the injured, and prevention of further injuries--have priority, and others must not interfere with these activities. When these matters are under control, the investigators can start their work.

Investigators may want to take photographs before anything is moved, both general area and specific items. Later careful study of these may reveal conditions or observations missed previously. Sketches of the scene based on measurements taken may also help in subsequent analysis and will clarify any written reports. Broken equipment, debris, and samples of materials involved may be removed for further analysis by appropriate experts. Even if photographs are taken, written notes about the location of these items at the incident scene should be prepared.

Witness Statements

Although not always an option, every effort should be made to interview witnesses. In some situations, witnesses may be the primary source of information because investigators may be called upon to investigate an accident without being able to examine the scene immediately after the event. Because witnesses may be experiencing severe emotional stress or fear of retaliation, interviewing witnesses is probably the hardest task facing an investigator.

Witnesses should be kept apart and interviewed as soon as possible after the incident. If witnesses have an opportunity to discuss the event with each other, individual perceptions may be lost in the normal process of accepting a consensus view where doubt exists about the facts.

Witnesses should be interviewed alone, rather than in a group. Deciding to interview a witness at the scene of the accident where it is easier to establish the positions of each person involved and to obtain a description of the events is one option; however, it may be preferable to carry out interviews in a quiet office where there will be fewer distractions. The decision may depend in part on the nature of the occurrence and the mental state of the witnesses.

The Interview:

Interviewing is an art which takes time and experience. Here we only discuss a few do's and don'ts. The purpose of the interview is to establish an understanding with the witness and to obtain his or her own words describing the event:

DO NOT...

- intimidate the witness
- interrupt or prompt
- ask leading questions
- show your own emotions
- jump to conclusions

DO...

- put the witness, who is probably upset, at ease
- stress the reason for the investigation is to determine what happened and how
- let the witness talk, listen
- confirm that you have the statement correct
- ask someone else on the team to take notes during the interview
- close the interview on a positive note

Ask open-ended questions that cannot be answered by simply "yes" or "no". The actual questions asked of the witness will naturally vary with each occurrence, but there are some general questions that should be asked each time:

- Where were you at the time of the incident or near miss?
- What were you doing at the time?
- What did you see, hear?
- What were the environmental conditions (weather, light, noise, etc.) at the time?
- What was (were) the injured worker(s) doing at the time?
- In your opinion, what caused the accident?

If the investigator was not at the scene at the time, asking questions is a straightforward approach to establishing what happened. Obviously, care must be taken to assess the credibility of any statements made in the interviews. Answers to a first few questions will generally show how well the witness could observe what happened.

Another technique sometimes used to determine the sequence of events is to re-enact or replay them as they happened. Obviously, great care must be taken so that further injury or damage does not occur. A witness (usually the injured worker) is asked to reenact in slow motion the actions that preceded the incident or near miss.

Background Information

A third, and often an overlooked source of information, can be found in documents such as technical data sheets, health and safety committee minutes, inspection reports, company policies, maintenance reports, past accident reports, formalized safe-work procedures, and training reports. Any pertinent information should be studied to see what might have happened, and what changes might be recommended to prevent recurrence of similar accidents.

Making the analysis and conclusions?

At this stage of the investigation most of the facts about what happened and how it happened should be known. This has taken considerable effort to accomplish but it represents only the first half of the objective. Now the key question—what caused or allowed it to happen? To prevent recurrences of similar incidents or near misses, the investigators must find all possible answers to this question.

Investigators have kept an open mind to all possibilities and looked for all pertinent facts. There may still be gaps in the understanding of the sequence of events that resulted in the incident. The investigation team may need to re-interview witnesses to fill these gaps of knowledge. When the analysis is complete, write down a step-by-step account of what happened (conclusions) working back from the moment of the event, listing all possible causes at each step. This is not extra work; it is a draft for part of the final report.

Each conclusion should be checked to see if:

- it is supported by evidence
- the evidence is direct (physical or documentary) or based on eyewitness accounts
- or the evidence is based on assumption

This list serves as a final check on discrepancies that should be explained or eliminated.

Why should recommendations be made?

It is essential to come up with a set of well-considered corrective actions designed to prevent recurrences of similar events. Once the investigation team is knowledgeable about the work processes involved and the overall situation in the organization, it should not be too difficult to come up with realistic recommendations. Recommendations should:

- be specific
- be constructive
- get at root causes
- identify contributing factors

Resist the temptation to make only general recommendations to save time and effort.

For example, the team has determined that a worn-out tool contributed to an event. Rather than just recommending "eliminate worn out tools," it would be better to suggest:

- A. replace worn-out tools at station B-northwest of building X (specific to this event)
- B. replace worn-out tools where required throughout the worksite (general)

Never make recommendations about disciplining a person or persons who may have been at fault. This would not only be counter to the real purpose of the investigation, but it may jeopardize the chances for a free flow of information in future investigations. In the unlikely event the investigation team has not been able to determine the causes of an event with any certainty, there are probably still uncovered safety weaknesses in the operation. It is appropriate that recommendations be made to correct these deficiencies.

The Written Report

Most businesses have a standard form that must be used; investigation teams will have little choice in the form the written report is to be presented. Nevertheless, investigators should be aware of, and try to overcome, shortcomings such as:

- If a limited space is provided for an answer, the tendency will be to answer in that space despite recommendations to "use back of form if necessary."
- If a checklist of causes is included, possible causes not listed may be overlooked.
- Headings such as "unsafe condition" will usually elicit a single response even when more than one unsafe condition exists.
- Differentiating between "primary causes" and "contributing factors" can be misleading.

All incidents and near miss causes are important and warrant consideration for possible corrective actions. The previously prepared draft of the sequence of events can now be used to describe what happened. Remember that readers of the report do not have the intimate facts of the event that investigators have so include all pertinent details.

Photographs and diagrams may save many words of description. Identify clearly where evidence is based on certain facts, eyewitness accounts, or assumptions. Weed out extra material that is not required for a full understanding of the event and its causes, such as photographs that are not relevant and parts of the investigation that led nowhere. The measure of a good incident or near miss reports is quality, not quantity.

Always communicate findings with workers, and both safety and union leadership. Present information 'in context' so everyone understands how the event occurred and the actions in place to prevent it from happening again.

What should be done if the investigation reveals human error?

A concept that has bothered many union leaders and union health and safety investigators is the idea that one does not want to lay blame. When a thorough worksite incident or near miss investigation reveals that some person or persons in supervision or the workers were apparently at fault, however, then this fact should be pointed out. The intention here is to remedy the situation, not to discipline an individual.

Failing to point out human error that contributed to an event will not only downgrade the quality of the investigation, but it will also allow future events to occur from similar causes

because they have not been addressed. Never recommend disciplining anyone who may be at fault. Any disciplinary steps should be done within the normal personnel procedures.

How should follow-up be handled?

Management is responsible for acting on the recommendations in the incident or near miss investigation report. The health and safety committee, if you have one, can monitor the progress of these actions. Follow-up actions include:

- Define corrective actions
- Develop a timetable for corrective actions.
- Monitor that the scheduled actions have been completed.
- Check the condition of injured worker(s).
- Inform and train other workers at risk.

In Summary: A more productive investigation approach goes far beyond placing blame. Instead, it focuses on identifying flaws in the process leading up to the incident and the safety procedures that were supposed to prevent it from happening. The goal is not only to ensure that the event isn't repeated; it's to use what you learn to head off other types of incidents. Another purpose is to prepare for the possibility of litigation, especially in incidents that result in severe injuries or fatalities.

A thorough, effective investigation should include the following:

- Immediate Response
- Information Gathering
- Release the scene
- Event Analysis
- A Report
- Communication of findings
- Corrective Actions

D. Hazard Controls

As you read earlier, there are many types of hazards in the workplace. Hazardous conditions may include unsafe materials, equipment, the environment, and workers. Unsafe work practices include allowing unqualified workers to perform tasks, taking unsafe shortcuts, or mandatory overtime. To combat these hazardous conditions and unsafe work practices, control strategies, called the "**Hierarchy of Controls**" have been established.

ANSI Z10-2012(R 2017), Occupational Health and Safety Management Systems, encourages employers to use the following five hazard control strategies:

1. Elimination
2. Substitution
3. Engineering controls
4. Administrative controls
5. Personal protective equipment

The theory behind this hierarchy is that the control methods at the top of the list are potentially more effective and protective than those at the bottom. Following the hierarchy typically leads to the operation of inherently safer systems.

What are "feasible" controls?

Hazard abatement (reduction) measures required to correct a hazard must be technologically and economically feasible for the employer. OSHA uses the following criteria to determine feasibility of engineering and administrative controls:

Technical Feasibility is the technical knowledge of techniques available or adaptable to specific conditions which can be applied with a reasonable possibility that employee exposure to hazards will be reduced.

Financial Feasibility means that the employer is financially able to start the actions necessary to abate recognized hazards. As leaders you may need to allow the use of PPE to abate a hazard, at least until such time an engineering control becomes a less significant monetary burden for the company when the following conditions are met: 1) If substantial project involving a capital expenditure would seriously jeopardize the company's financial situation is the only method whereby the employer could achieve effective engineering controls 2) If adequate personal protective equipment or devices are available 3) If there are no practicable administrative controls

OSHA Section 5-General Duty Clause

Section 5(a)(1) of the OSH Act, often referred to as the General Duty Clause, requires employers to "furnish to each of his employees' employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees."

Section 5(a)(2) requires employers to "comply with occupational safety and health standards" promulgated under this Act

Section 5(b) requires each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this Act which are applicable to his own actions and conduct.

III. WORKER RIGHTS AND RESPONSIBILITIES UNDER THE OCCUPATIONAL HEALTH AND SAFETY ACT OF 1970

A. Worker Rights and Responsibilities

As a worker, you have a right to:

1. Get training from the employer as required by OSHA standards.

Get training from your employer on chemicals you are exposed to during your work and information on how to protect yourself from harm. Employers must establish a comprehensive, written hazard communication program (Chemical Hazard Communication) Your employer must label chemical containers, make safety data sheets available to workers, and train you about the health effects of the chemicals you work with and what the employer is doing and what you can do to protect yourself from these hazards.

Get training from your employer on a variety of other health and safety hazards and standards that your employer must follow. These include lockout-tagout, Bloodborne pathogens, confined spaces, construction hazards and a variety of other subjects.

2. Request information from your employer about OSHA standards, worker injuries and illnesses, job hazards and workers' rights.

Request information from your employer on safety and health hazards in your workplace, chemicals used in your workplace, tests your employer has done to measure chemical, noise and radiation levels, precautions you should take and procedures to be followed if you or other workers are involved in an incident or are exposed to hazardous chemicals or other toxic substances.

You have a right to:

- Request copies of appropriate standards, rules, regulations, and requirements that your employer should have available at the workplace.
- Review the Log and Summary of Occupational Injuries and Illnesses (OSHA 300) at a reasonable time and in a reasonable manner or have an authorized representative do so for you. (29 CFR 1904.7)
- Access relevant exposure and medical records. (29 CFR 1910.1020)

Employers must inform you of the existence, location, and availability of your medical and exposure records when you first begin employment and at least annually thereafter.

When an employer plans to stop doing business and there is no successor employer to receive and maintain these records, the employer must notify you of your right of access to records at least 3 months before the employer ceases to do business.

You also have a right to observe any monitoring or measuring of toxic materials or chemicals, as well as harmful physical agents, such as noise, and see the resulting records. If the exposure levels are above the OSHA limit, the employer must tell you what will be done to reduce the exposure -- the right to observe monitoring exists only where monitoring is performed pursuant to a standard that provides employees with the right to observe.

3. Request action from your employer to correct hazards or violations.

You may ask your employer to correct hazards even if they are not violations of specific OSHA standards. Be sure to keep copies of any requests you make to your employer to correct hazards.

4. File a complaint with OSHA if you believe that there are either violations of OSHA standards or serious workplace hazards.

File a complaint and request OSHA to conduct an inspection if you believe serious workplace hazards or violations of standards exist in your workplace.

5. Be involved in OSHA's inspection of your workplace.

You have a right to have an authorized employee representative accompany the OSHA compliance officer during the inspection tour. The employee representative has a right to accompany an OSHA compliance officer during an inspection. Under no circumstances may the employer choose the workers' representative.

You have a right to respond to questions from the compliance officer and tell the compliance officer about workplace hazards. You and co-workers have a right to talk confidentially to the compliance officer. You may point out hazards, describe injuries or illnesses or near misses that resulted from those hazards and describe past complaints about hazards. Inform the inspector if working conditions are not normal during the inspection. Make sure that the inspector is aware if equipment has been shut down, windows opened, or other conditions changed from normal.

6. Find out the results of OSHA inspections.

You have a right to find out the results of OSHA inspections and request a review if OSHA decides not to issue a citation. The inspector may take samples to measure levels of chemicals or other hazardous materials. OSHA will let the employee representative know if your employer complies. The inspector also will gather detailed information about your employer's efforts to control health hazards, including results of tests your employer may have conducted.

7. Get involved in any meetings or hearings to discuss any objections your employer has to OSHA's citations or to changes in abatement deadlines.

8. File a formal appeal of deadlines for correction of hazards.

File an appeal of the deadlines that OSHA sets for your employer to correct any violation in the citation issued to the employer. Write to the OSHA Area Director within 10 working days from the date the employer posts the notice requesting on extension of the abatement deadline if you feel the time is too long.

9. File a discrimination complaint.

File a discrimination complaint (under Section 11(c) of the OSH Act) within 30 days if you are punished or discriminated against for exercising your safety and health rights.

10. Request a research investigation on possible workplace health hazards.

* Contact the National Institute for Occupational Safety and Health (NIOSH) to request a health hazard evaluation if you are concerned about toxic effects of a substance in the workplace.

11. Provide comments and testimony to OSHA during rulemaking on new standards.

As a worker, you have Responsibilities to:

Although OSHA does not cite employees for violations of their responsibilities, each employee "shall comply with all occupational safety and health standards and all rules, regulations, and orders Issued under the Act" that are applicable.

Employee responsibilities and rights in states with their own occupational safety and health programs are generally the same as for workers in federal OSHA states.

As an employee, you should:

- Read the OSHA poster at the jobsite.
- Comply with all applicable OSHA standards.
- Follow all employer safety and health rules and regulations, and wear or use prescribed protective equipment while engaged in work.
- Report hazardous conditions to the supervisor.
- Cooperate with the OSHA compliance officer conducting an inspection if he or she inquires about safety and health conditions in your workplace.
- Exercise your rights under the Act in a responsible manner.

Employee and Union Rights to Records [1904.35]

Under the rule, employers are required to inform workers how to report injuries or illnesses. Employers are required to set up a way to receive these reports promptly. The employer must also provide workers, former workers, their personal representatives, and their authorized employee representative (union representative) with access to injury and illness records, including a copy of the OSHA 300 Log. Copies must be provided by the end of the next business day following a request. The names of employees must be left on the OSHA 300 Log unless they are "privacy concern cases."

Employees, former employees, or personal representatives must be given a copy of a requested Form 301 Incident Report by the end of the next business day following a request. However, when an authorized employee representative (union representative) asks for a copy of the Form 301 Incident Report, the employer is only required to provide copies of the part of the form that contains information about the case, with all personal information about the employee removed, within seven (7) calendar days.

Employers must provide copies of the OSHA 300 Logs and Form 301 Incident Reports free of charge the first time they are requested.

No Discrimination Allowed [1904.36]

The rule notes that Section 11(c) of the OSH Act prohibits the employer from discriminating against a worker for reporting a work-related injury, illness or death; filing a safety and health complaint; asking for access to injury and illness records; or for exercising any other rights under the OSH Act.

The Whistleblower Program

The Occupational Safety and Health Act was enacted to achieve safer and more healthful workplaces throughout the nation. The Act provides for a wide range of substantive and procedural rights for employees and representatives of employees.

To help ensure that employees are, in fact, free to participate in safety and health activities, Section 11(c) of the Act prohibits any person from discharging or in any manner discriminating against any employee because the employee has exercised rights under the Act.

These rights include complaining to OSHA and seeking an OSHA inspection, participating in an OSHA inspection, and participating or testifying in any proceeding related to an OSHA inspection.

"Discrimination" can include the following actions:

- Firing or laying off
- Assigning to undesirable shifts
- Blacklisting
- Demoting
- Denying overtime or promotion
- Disciplining
- Denial of benefits
- Failure to hire or rehire
- Intimidation
- Transferring
- Reassigning work
- Reducing pay or hours

OSHA also administers the whistleblowing provisions of thirteen other statutes, protecting employees who report violations of various trucking, airline, nuclear power, pipeline, environmental, and securities laws.

Not covered by the OSH Act:

- Self-employed.
- Immediate family members of farm employers that do not employ outside employees; and
- Workplace Hazards regulated by another Federal agency (for example, the Mine Safety and Health Administration, the Federal Aviation Administration, the Coast Guard).

What to do if there is a Dangerous Situation at Work

Workers' Right to Refuse Dangerous Work

If members believe working conditions are unsafe or unhealthful, the member must bring the conditions to their employer's attention. It is recommended that the workers state they are willing to work a safe job and are waiting for their Union Representative and management to resolve the tasks the member believes puts their life in imminent danger. It is the job of the Union Representative to protect workers who believe that they are in danger of performing unsafe work. OSHA does not guarantee the right to refuse work or walk off the job because of potentially unsafe working conditions-Union representatives must know the approaches for protecting members disciplined for refusing what they believe as unsafe work.

B. State Plans

OSHA covers most private sector employers and workers in all 50 states, the District of Columbia, and other U.S. jurisdictions, either directly through Federal OSHA or through an OSHA-approved state plan.

State plans are OSHA-approved job safety and health programs operated by individual states instead of Federal OSHA. State-run safety and health programs must be at least as effective as the Federal OSHA program

The following states have approved state plans:

- Alaska
- Arizona
- California
- Connecticut
- Hawaii
- Illinois
- Indiana
- Iowa
- Kentucky
- Maryland
- Michigan
- Minnesota
- Nevada
- New Jersey
- New Mexico
- New York
- North Carolina
- Oregon
- Puerto Rico
- South Carolina
- Tennessee
- Utah
- Vermont
- Virgin Islands
- Virginia
- Washington
- Wyoming

Note: The Connecticut, Illinois, New Jersey, New York, and Virgin Island plans cover public sector (State and Local government) employment only

Summary:

This is a brief overview. A great deal of additional information is available to support in dealing with health and safety challenges. When a local union has a health and safety concern, the staff representative and local union leadership can call on the IUE-CWA Health, Safety office for help.

