
Please see below.

ARTICLE 34

Safety and Health

Section 1 - General Statement

The Department will, to the extent of its authority, provide and maintain safe and healthful working conditions for all employees. Management will designate a collateral duty safety and health representative for each duty station responsible for reporting any unhealthful, hazardous, or unsafe conditions to the Regional Safety and Health Manager. Pursuant to 29 CFR 1960.25(a) personnel responsible for conducting inspections under the Department's Safety and Health Program shall have both the requisite equipment and expertise in the recognition and abatement of hazards. The Department of Labor's Occupational Safety and Health Program will comply with the requirements of Executive Order and DLMS 4, Chapter 800, and other applicable State and local laws. The Department is committed to operate the Department of Labor Safety and Health Program in accordance with 29 CFR 1960.

Section 2 - Correcting Conditions

The Department agrees that its Occupational Safety and Health Program will provide prompt abatement of unsafe or unhealthful working conditions. Procedures for abatement of unsafe or unhealthful working conditions as required by 29 CFR 1960 are described in DLMS 4, Chapter 800. Where the unsafe conditions are immediately dangerous to life and limb and the repairs necessary to correct the unsafe conditions are of such an extensive nature that immediate repairs cannot be made to render the area safe, the employees shall not be exposed to the hazard and alternate accommodations shall be found until the area is made safe.

Section 3 - Employee Rights/Responsibilities

- A. The detection of unsafe and unhealthful working conditions at the earliest possible time and the prompt correction of related hazards at the lowest possible working level are essential elements of the Department's Safety and Health Program. Any employee in the bargaining unit who is assigned duties which he/she reasonably believes could possibly endanger his/her health or well-being shall notify the supervisor of the situation and file a report of unsafe or unhealthful working conditions. If the supervisor cannot solve the problem and agrees with the employee, the supervisor shall delay the assignment and refer the matter through the proper channels for appropriate action. Specific procedures are described in DLMS 4, Chapter 800.
- B. The Department shall assure that no employee is subject to restraint, interference, coercion, discrimination, or reprisal for filing a report of unsafe or unhealthful working conditions or other participation in Agency Occupational Safety and Health Program activities. An employee who believes she or he has been subject to acts of reprisal for participation in the Department's Safety and Health Program activities has the right to seek redress through established grievance procedures.
- C. An employee has the right to decline to perform his or her assigned task because of the reasonable belief that, under the circumstances, the task poses an imminent risk of death or serious bodily harm, coupled with a reasonable belief that there is insufficient time to seek effective redress through normal hazard reporting and abatement procedures.

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- D. Employees or Union Representatives are entitled to official time to participate in the Department's Safety and Health Program.
 - E. Employees or Union Representatives have the right to advise Management concerning safety and health problems.
 - F. Employees or Union Representatives have the right to be involved in inspection activity. Employees and Union Representative should be interviewed during Regional Safety and Health Program evaluations.
 - G. Employees are expected to follow safety and health directives and practices, including the wearing and use of protective equipment.

Section 4 – Life Saving Equipment

- A. The Department recognizes the value in making available and providing required support and training in the use of Automated External Defibrillators (AED). On a cost effective basis, the Department will continue to expand the availability of AEDs at all Department of Labor facilities to the extent feasible. The parties agree to the particular need for feasibility studies for small DOL field offices. The NCFLC will be afforded an opportunity for input into the design of such studies.
- B. The Department will continue to provide the NCFLC with a recurring formal report on the extent to which AED are currently available for all field locations. The results of any DOL feasibility studies on expanding AED availability will be provide to the NCFLC.

Section 5 - Personal Protective Equipment and Clothing

The Department will provide personal protective equipment and clothing to protect employees from safety and health hazards. The Department of Labor shall comply with 29 CFR 1960; DLMS 4, Chapter 800; and 29 CFR 1910.132. It was agreed that Management would consider Union input on equipment selection and purchase. These discussions could occur at Safety and Health Committee meetings, LMR meetings, and at the local office level. The parties agree that decisions on weather related equipment be made by Management based on local conditions. It was agreed that insulated coveralls would be provided where needed based on a case-by-case situation.

Department of Labor employees operating or riding in Government owned, rented, or privately owned vehicles on official business are to use safety belts (both seat and shoulder) if available.

Section 6 - Safety and Health Inspections

- A. The Department of Labor Safety and Health Program includes the following types of workplace inspection activities:
1. Day-To-Day Inspections;
 2. Annual Inspections;
 3. Unannounced Inspections; and
 4. Pre-Occupancy Inspections.

These inspections are described in DLMS 4, Chapter 800.

- B. Pursuant to 29 CFR 1960, the NCFLL is entitled to designate representatives to be afforded an opportunity to take part in safety and health inspections. On a regional basis, the NCFLL will advise the Department who will serve as their officials to designate these union inspection representatives.
- C. The Department will submit to the respective NCFLL Officials (described in B above) its annual safety and health inspection plans at the beginning of each fiscal year. These plans will specify the planned dates that each DOL office will be inspected. They will also specify if the office will be inspected by a safety and health professional sent to the office by OASAM and, if not, what alternative method will be used. Changes to these plans will be communicated to the affected NCFLL officials in a timely manner.
- D. For each respective region, at the beginning of the fiscal year, the affected NCFLL designating officials will provide the appropriate OASAM Regional Administrator with a list of the names and telephone numbers of NCFLL safety and health representatives by location who are to be contacted and afforded an opportunity to take part in both planned, unannounced and unplanned safety and health inspections of the listed DOL offices. Shortly before an office inspection is to occur, the person designated by the Department to conduct the inspection will notify the NCFLL safety and health representative listed for that office of the anticipated time of day that the inspection will begin. If for some reason this designated NCFLL representative is not available, the affected

NCFLL designating officials will be contacted and afforded an opportunity to designate an alternate NCFLL representative.

- E. Designated NCFLL safety and health representatives will be granted official time and travel expenses consistent with the provisions of the Article 7 to participate in these DOL office safety and health inspections. The designated NCFLL inspection representative will also be afforded the opportunity to consult with the office steward or other employees in the office on safety and health matters during the inspection.
- F. The Department will ensure that designated NCFLL safety and health inspection representatives are provided appropriate training in order to perform their duties as specified in 29 CFR 1960. Official time and travel expenses will also be granted for the purpose of this training, consistent with the provisions of Article 8. The Department will provide a report of the above training to the NCFLL on an annual basis.
- G. To supplement the above training, the NCFLL agrees that it will incorporate training on current DOL safety and health issues into its core curriculum specified in Article 22.

Section 7 – Exposure to Hazardous Materials

It is the policy of the Department of Labor to protect employees from exposure to hazardous materials through the use of personal protective equipment and the Department’s Hazard Communication Program (DLMS 4, Chapter 800).

Employees who are accidentally exposed to carcinogenic or similar hazardous material will be offered an opportunity to take a physical examination provided by the Department. Any recommended subsequent periodic examinations will be voluntary.

The Department will provide a means by which employees may document any exposure to chemical hazards contacted on the job by utilizing Office of Workers’ Compensation CA Forms.

Section 8 - Ergonomic Hazards

- A. The Department agrees that employees should be provided information about ergonomic hazards and how to prevent ergonomic related injuries. This information may be provided by Spotlights, OSHA Safety and Health Guidelines, and other available literature. The Department agrees to the maximum extent possible

to provide equipment (chairs, tables, workstations, etc.) which meet nationally recognized ergonomic design criteria. Before equipment is purchased, to the extent possible the vendor should provide training on safe and proper operation of the equipment.

- B. The policy of the Department is to provide safe and healthful workplaces for all DOL employees. In keeping with the policy, the Department acknowledges that there are certain ergonomic and environmental factors that can contribute to the health and comfort of computer users. These factors involve the proper design of workstations and the education of managers, supervisors, and employees regarding the ergonomic, job design, and organizational solutions to computer problems as recommended in various studies published by the National Institute for Occupational Safety and Health (NIOSH).

The Department will achieve this policy by:

1. Acquiring computers and accessory equipment that, to the maximum practical extent, provide comfort to the user and keyboards, worktables, and chairs that are height adjustable and provide proper back support.
2. Providing for the laying out of workspaces that are properly illuminated to reduce glare and ensure visual comfort to computer users while providing adequate lighting for traditional clerical tasks.
3. Seeking and acquiring information and technical assistance, as needed, from appropriate resources on methods for most effectively designing computer workstation layouts.
4. Educating employees about the proper and safe operation of computers, including the value of interspersing prolonged periods of computer use with other work tasks requiring less intensive visual concentration.

Section 9 – Training

The Department agrees that its occupational safety and health program will provide safety and health training. The parties recognize that training of collateral duty safety and health personnel, committee members, employees and employee representatives shall be conducted in accordance with 29 CFR Sections 1960.58 and 1960.59. As prescribed in those sections, such training shall include:

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- Agency safety and health programs
 - Section 19 of the OSH Act
 - Executive Order 12196
 - 29 CFR 1960
 - Agency procedures for reporting evaluation and abatement of hazards
 - Agency procedures for reporting and investigating allegations of reprisals
 - Recognition of hazardous conditions and environments
 - Identification and use of occupational safety and health standards
 - Other appropriate rules and regulations

This section does not preclude management from determining any other safety and health training as necessary. The NCFLL recognizes management's right to determine who will conduct the training, how it will be conducted and when.

Section 10 – Safety and Health Committees

- A. The Department and the NCFLL mutually agree to continue to support certified safety and health committees as specified in 29 CFR 1960.37. In addition to the Departmental Safety and Health Committee, the Department has determined there will be a single establishment level certified safety and health committee with coverage for all DOL field locations.
- B. This Field Safety and Health Committee is established to monitor and assist in the development and operation of the Department of Labor's Safety and Health Programs to carry out the following functions defined in 29 CFR 1960: reports of inspections, internal and external evaluation reports, Agency safety and health training programs, proposed Agency standards, Agency plans for hazard abatement, responses to reports of hazardous conditions, Safety and Health Program deficiencies, and allegations of reprisal. This committee is further specifically charged by the parties to explore ways to reduce worker's compensation costs and enhance the DOL safety and health program.
- C. The Department has determined that the Field Safety and Health Committee will be composed of five management and five union representatives. The NCFLL will be entitled to designate at least four of the union representatives. (The parties recognize that the National Union of Labor Investigators (NULI) has the right to participate on the Field Safety and Health Committee.)

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- D. As required by 29 CFR 1960, Section 37(e) the committee shall meet four times annually at mutually agreed to times and locations. The Field Safety and Health Committee will maintain and keep minutes of its quarterly meetings. NCFLL committee members will be granted official time and travel expenses to attend the meetings. The parties agree to mutually arrange for the operational needs of the Field Safety and Health Committee, i.e., determination of recording secretary, support and participation from DOL safety, employee health and security staff, etc.
- E. The parties recognize that the NCFLL has determined to only attend one meeting of the Departmental Safety and Health Committee and restrict official time and travel for such attendance to a single trip for each of its two representatives. The parties further recognize that the NCFLL prefers that there be only a single annual meeting of the Departmental Safety and Health Committee as permitted by 29 CFR 1960.37(e).
- F. The parties have by mutual agreement established auxiliary safety and health committees for specific purposes, i.e., site committees for Voluntary Protection Program activities, site committees established by the parties for the Office of Workers Compensation Programs field offices, or accident review boards at the regional/local level. The continuation or further establishment of such committees will only be by mutual agreement.
- G. The Department will ensure that NCFLL committee members are provided with appropriate training to enable them to perform their duties as specified by 29 CFR 1960. NCFLL safety and health committee members will be granted official time and travel expenses, consistent with provisions of Article 8, to take this training.

Section 11 – Committee Dispute Resolution

The following procedures will be utilized to resolve issues raised by half or more of the Field Safety and Health Committee under the provisions of 29 CFR 1960.40(b)(9)&(10).

- A. The Department agrees that its Occupational Safety and Health Program will provide prompt abatement of unsafe or unhealthful working conditions. Procedures for abatement of unsafe or unhealthful working conditions as required by 29 CFR 1960 are described in DLMS 4, Chapter 800. Where the unsafe conditions

are immediately dangerous to life and limb and the repairs necessary to correct the unsafe conditions are of such an extensive nature that immediate repairs cannot be made to render the area safe, the employees shall not be exposed to the hazard and alternate accommodations shall be found until the area is made safe.

- B. Affected OASAM Regional Safety and Health Managers, supervisors and other professional staff will be afforded reasonable time to respond to reports of hazardous conditions, as specified in Executive Order 12196. The safety and health committee will be advised of such reports, findings, and abatement actions. Reports will be available no later than the regularly scheduled quarterly committee meetings.
- C. If, after affording the regional safety and health staff a reasonable amount of time to resolve the condition, the complainant is dissatisfied with the resolution, the matter can be referred to the affected Regional Administrator of OASAM who will consult with appropriate agency official(s) to resolve the unsafe/unhealthful condition. The Regional Administrator for OASAM will be afforded a reasonable amount of time to respond back to the complainant.
- D. In accordance with 29 CFR 1960 if, after affording the affected Regional Administrator for OASAM (in consultation with appropriate agency official(s) a reasonable amount of time to resolve such concerns, and having reviewed actions taken, half or more of the members of the safety and health committee are not satisfied with the Department's response the committee, by vote of half or more of the committee membership, may refer the matter for an independent evaluation or inspection to the Secretary of Labor. Such a request will be in sufficient detail as necessary and, in the interests of expediting the action, may be submitted using the Department's electronic mail system. The committee will advise the affected Regional Administrator for OASAM and other affected officials of its actions in writing.
- E. The Secretary will advise the safety and health committee members and the President of the NCFLL of what actions will be taken within 15 workdays of receiving the committee's request. The Secretary may refer the matter to the Occupational Safety and Health Administration (OSHA) for evaluation or inspection per 29 CFR 1960.31 or may initiate other appropriate, effective

means for resolution. If the Secretary fails to respond timely within 15 workdays the NCFLL may choose to initiate the expedited fact finding arbitration procedure below.

- F. If the matter is referred timely to OSHA for action, the NCFLL will afford that agency a reasonable amount of time consistent with its procedures to resolve the matter before making use of the expedited fact finding arbitration procedure.

If there is a timely response and the Secretary elects not to refer the matter to OSHA, and the matter is not resolved in a manner satisfactory to the NCFLL, the NCFLL may initiate the expedited procedure. In this instance, the NCFLL will allow at least 45 days from the original submission of referral to the Secretary by the committee members before initiating the expedited procedures.

Section 12 - Expedited Fact Finding Arbitration Procedures

- A. This Expedited Fact Finding Arbitration Procedure is for use in rare instances where the NCFLL and the Department cannot reach satisfactory resolution of serious safety and health issues. The Expedited fact Finding Arbitration Procedure may be invoked after use of all established procedures, including the Supplementary Safety and Health Committee Procedures described above, has not resolved the issue.
- B. The NCFLL would notify the Department when it believes that established procedures have reached an impasse (a serious breakdown in internal procedures, a continuing failure to abate serious hazardous or unhealthy working conditions, etc.) Such notifications would be by the President of the NCFLL to the Director, Office of Employee and Labor Management Relations (OELMR).
- C. The Department would be afforded 10 workdays to make a final resolution of the matter. If the Department cannot achieve this resolution within 10 workdays, arbitration is automatically invoked.
- D. The parties would schedule the arbitration as soon as possible, using the following procedures.

The parties will use the American Association of Arbitrators (AAA) for selection of an arbitrator. The NCFLL will request a list of arbitrators from AAA immediately after its invocation of arbitration. When solicit-

ing a list of potential arbitrators, the NCFLL, on behalf of both parties, will make the following requests of AAA:

1. A list of three potential arbitrators from the area where the serious conditions exist should be provided to both parties.
2. Arbitration hearings should be held at or near the site where the serious conditions exist.
3. The arbitrators should have experience in handling safety and health issues.
4. The arbitrators should be able to schedule the arbitration hearing within 60 calendar days.

Within 10 workdays of receipt of the list, the parties will mutually select an arbitrator from the listed arbitrators. If possible this should be by listing the arbitrators in order of mutual preference of the parties and agreeing to the selection of the mutual first choice. Failing this the parties may each choose to strike one of the three listed arbitrators. The arbitrator selected by the parties will be notified of his or her selection within 3 workdays. If for some reason the selected arbitrator is unable to schedule the hearing within 60 calendar days the parties may mutually select one of the other arbitrators on the list instead. If the parties are unable to agree upon one of the remaining arbitrators on the list who can schedule the hearing within 60 calendar days (or none of the arbitrators listed can schedule in that time frame) the parties may request an additional list and follow the above process of selection from the new list.

The parties will request that the arbitrator will render and serve his or her award within 30 calendar days of the close of hearing.

The parties agree that all other provisions of Article 16 not modified by this expedited procedure remain in effect.

- E. **Fact Finding Procedures:** The parties agree to the need to develop facts about actual on-site safety and health conditions prior to the arbitration hearing. By mutual agreement the parties could implement the following fact finding procedure at any point in the process. However, any fact-finding visit will be conducted no later than 10 workdays before the scheduled arbitration date. The parties preferred method for fact finding is through an on-site visit. Such a visit will be coordinated by the OASAM National Office of Safety and Health with the affected agency Regional

Administrator and with an occupational safety and health qualified union representative designated from the bargaining unit by the NCFLL President to serve as the union fact finder. The NCFLL representative and the OASAM National Office of Safety and Health team leader will mutually schedule the on-site visit. The NCFLL fact finder, while participating under the general guidance of the OASAM team leader, will have the right to privately confer with bargaining unit members on the safety and health matters at issue and independently observe, investigate and document conditions at the worksite. The designated union fact finder will be granted official time per Article 8 to participate in the fact finding visit. (Where the designated fact finder is one of the NCFLL national officers the Department will pay any associated travel expenses.) Before conclusion of the site visit, team members will meet to share information received during the site visit on the safety and health matters at issue.

Should either party determine that this fact finding arbitration procedure is not working effectively, that party may provide written notice of its intent to reopen Section 12 of this Article. Negotiations on the reopened section will begin within sixty (60) days of receipt by the other party of such written notice.

Section 13 – Voluntary Protection Program

- A. The parties mutually support seeking Voluntary Protection Program (VPP) status from the Occupational Safety and Health Administration (OSHA) for DOL field sites. The parties recognize that VPP status is determined by OSHA on site by site basis and agree to jointly determine at which DOL field sites they will seek such recognition. Either party reserves the right to withdraw its support for any selected field site after affording a reasonable amount of advance notice to the other.
- B. The parties recognize that strong local support from both union and management is necessary in order to achieve VPP status. Accordingly, the parties agree to involve fully both local DOL management and NCFLL officials at the beginning and throughout the VPP process for each selected site. Further, recognizing that an effective site specific safety and health committee is a prerequisite to pursue VPP status, the parties agree to have such a committee for each selected site. VPP site committees will have an equal numbers of management and NCFLL members. Site

