

The Labor Movement's Role in Gaining Federal Safety and Health Standards to Protect America's Workers¹

Workers in the United States have been fighting for more than a century to obtain safe and healthy working conditions. Unions have been at the forefront of those efforts and have been largely responsible for the protections that many workers take for granted today.

When the American Federation of Labor was first formed in 1886, they continued to demand, as did the Knights of Labor before them, full safety and health protections for mining, manufacturing and construction workers.

From then until the present time, many struggles have ensued – more than can be captured in this paper. With the passage of the Occupational Safety and Health Act in 1970, and the Coal Mine Health and Safety Act and the Mine Safety Act, there were finally Federal entities with the legal responsibility to protect workers, and with a key responsibility of setting workplace safety and health standards. Workers finally had the legal right to a safe and healthy workplace, to report unsafe work, and to request and receive information related to their health and safety.

Below are just some of the contributions that unions have made to advance legal safety and health protections at the Federal level to improve conditions for workers over the past 30 years. Unions have made numerous other gains in safety and health protections through collective bargaining, organizing, safety and health committees and training and education programs.

The unions, in particular the Union of Needletrades, Industrial and Textile Employees (UNITE!),² are responsible for the detailed safety and health statistics provided by the Bureau of Labor Statistics. While the BLS provided rudimentary data on occupational injuries and illnesses, the unions saw a need for more detailed information in order to better understand the types of injuries that were occurring and to whom they were occurring. The Characteristic data now provided by BLS is the result of work by the Labor Research Advisory Committee on Occupational Safety and Health. The Census of Fatal Occupational Injuries is also a result of that committee.

In many cases, unions have succeeded in gaining stronger protections through bargaining language than OSHA is able to provide through its standards. Unions have developed numerous training programs to educate workers about the safety and health hazards they face, and ways to work with employers to

¹ This is a living document to be updated and changed as new information about contributions is revealed.

² UNITE! was formed by the 1995 merger between the International Ladies Garment Workers Union (ILGWU) and the Amalgamated Clothing and Textile Workers Union (ACTWU).

mitigate those hazards. These training programs foster safety and health activists and leaders who can work with the rank and file and on safety and health committees to improve workplace conditions.

The Occupational Safety and Health Act (OSH Act) – Calling it a “safety Bill of Rights,” and after years of concentrated effort, which began in the mid-1960s with a concerted effort by the Industrial Union Department, AFL-CIO, the Steelworkers and the AFL-CIO, unions succeeded in pressing Congress to establish the OSH Act in 1970. The OSH Act created the Occupational Safety and Health Administration (OSHA). The act gave OSHA broad powers to set and enforce workplace safety rules – from exposure to toxic substances to dangerous working conditions to employer accountability for job safety. It also established a system of fines and criminal penalties for employers who violate safety laws and gave workers a legal right to raise issues concerning their safety and health in the workplace.

Coal Mine Health and Safety Act and Mine Safety and Health Act – Thousands of coal miners’ lives and health have been saved because of the 1969 coal act and 1977 mine act, which created the Mine Safety and Health Administration (MSHA). The United Mine Workers of America (UMWA) was instrumental to passage of both of the Mine Acts. Following a particularly devastating coal mine explosion in Farmington, WV in 1968 and knowing that 4,000 miners a year were dying from black lung disease, the Mineworkers staged massive wildcat strikes in 1969 disrupting coal mining in Ohio, Pennsylvania and West Virginia. That same year, Congress passed the Coal Mine Health and Safety Act. The UMWA and the Steelworkers pressed further and won passage of MSHA in 1977, which allows mine inspectors to stop unsafe production in the mines, requires four inspections a year in each underground mine, increases federal enforcement powers in mines, establishes civil and criminal penalties for safety violations and provides compensation for miners disabled by black lung, the fatal respiratory disease caused by exposure to coal dust.

Asbestos – In 1971, OSHA adopted the existing federal regulation for asbestos under the Walsh-Healy Act. Later that year, the Industrial Union Department of the AFL-CIO petitioned the Labor Department for an emergency temporary standard (ETS) to reduce worker exposure to asbestos, which causes cancer and other respiratory diseases. OSHA issued an emergency temporary standard and finalized a new permanent standard in June 1972. In 1983, the International Association of Machinists and Aerospace Workers (IAM) petitioned OSHA for a second asbestos ETS. Sixteen other unions joined this petition. Union efforts to strengthen the rule resulted in two new final rules being issued in 1986, one for general industry and one for construction. These rules were challenged by industry, which did not want regulations and by the AFL-CIO and its Building and Construction Trades Department, which wanted them strengthened. The unions’ challenge was successful and in 1990 the previous standard was strengthened. Meanwhile, in 1988, the Service Employee’s International Union along with the

American Federation of State, County and Municipal Employees (AFSCME) petitioned the Environmental Protection Agency (EPA) to require inspection for asbestos in all public and commercial buildings. Owners of buildings and facilities who were also employers were held responsible for identifying asbestos and notifying contractors and workers who might come into contact with it. Six years later, EPA issued a worker protection rule to extend protections to public employees. Asbestos protections were further strengthened in 1994, expanded to cover shipyards, cutting exposure limits in half for nearly 4 million workers, and saving 42 lives a year, according to OSHA projections.

Fourteen Carcinogens – In 1973, the Paper, Allied-Industrial, Chemical & Energy Workers Union (PACE)³ joined the Health Research Group of Public Citizen, in petitioning the Labor Department for a standard to protect workers from a group of known carcinogens. Once the standard was published, in 1974, and challenged by industry, the OCAW defended the standard in court.

Vinyl Chloride – Vinyl chloride is used in the production of plastic piping, conduit, floor coverings, electrical applications and transportation applications. Vinyl chloride is a gas at room temperature, and workers would inhale it, causing cancer in the liver, brain, and lungs. In 1974, OSHA issued a final rule to protect workers from exposure to vinyl chloride. The standard requires employers to monitor workers for exposure to vinyl chloride, provide respiratory protection and to limit worker exposure to less than 1 part per million over an 8-hour period. The rule was challenged by industry, and the Industrial Union Department of the AFL-CIO intervened and successfully defended the standard in court.

Coke Oven Emissions – Steelworkers petitioned the Labor Department for a more stringent standard to limit worker exposure to the toxic emissions generated during the steel-making process from coke ovens. These emissions pose a significant risk of cancer, including lung and urinary tract as well as skin tumors and nonmalignant respiratory diseases. The Steelworkers' petition was denied, but in 1974 a standards advisory committee was established to work on the rule. The advisory committee largely failed in its work and the Steelworkers had to fight every step of the way to make their case for a strong standard. The standard, issued in 1976, set a permissible exposure limit for coke oven emissions and requires that employers regularly monitor workers for exposure. It also mandates corrective measures by the employer if workers are exposed to an unacceptably high level of toxic emissions. The Steel companies challenged the standard and the Steelworkers, along with the AFL-CIO successfully defended it in court.

Commercial Diving Operations – During the early 1970s the United States was moving into a period of severe oil shortage and U.S. offshore oil exploration

³ PACE is the union resulting from the 1999 merger of the Oil, Chemical and Atomic Workers (OCAW) and the United Paperworkers International Union. It was OCAW that petitioned OSHA in 1973.

companies were diving into unexplored depths, moving out from 200 feet of water into 800-foot territory in the Gulf of Mexico. Simultaneously, small mom and pop contractors, often with no on-site decompression chambers and no diving bells, and untrained divers and tenders, were competing to get the lucrative oil industry diving work, laying pipe, setting rigs, and maintaining offshore equipment. The outcome was disastrous for divers. Avoidable fatalities and injuries were commonplace. A small organization of commercial divers based in New Orleans, the International Association of Professional Divers (IAPD), organized around safety and health, frustrated by the slowness of the process leading to a consensus standard through the American National Standards Institute, approached the United Brotherhood of Carpenters and Joiners of America (UBC) and asked to affiliate. The Carpenters represented divers in America's harbors and rivers, and offshore in the West and Alaska. The UBC petitioned OSHA in 1975 for an Emergency Temporary Standard, citing data showing fatalities among commercial divers of 10 times the rate of coal miners, and bone necrosis (osteonecrosis) affecting approximately one-quarter of the working divers in the Gulf of Mexico. Divers were suffering central nervous system damage from air embolism hitting the brain and spinal cord, and regularly were exposed to decompression sickness as a matter of course in their working lives. Existing voluntary guidelines established by insurance companies were ignored as a matter of course, even though wide consensus existed in the industry as to what minimum conditions were necessary. OSHA, issued the emergency standard June 15, 1976, based on the last draft of the ANSI standard, to be effective July 15, 1976. On a petition filed by the industry, the U.S. Court of Appeals for the Fifth Circuit stayed the Emergency Standard. The Carpenters, then joined by the AFL-CIO, continued to press for implementation of the standard. OSHA issued a permanent commercial diving standard, effective October 20, 1977. Simultaneously, the U.S. Coast Guard promulgated an identical standard for its jurisdiction, and the two agencies entered into a memorandum of understanding toward a seamless application to protect commercial divers working on the Outer Continental Shelf. Those two standards are in place today, virtually unchanged and unimproved since 1977. OSHA promulgated an exemption November 28, 1982, for "scientific diving" which was narrowed as a result of efforts again by the United Brotherhood of Carpenters together with the AFL-CIO.

Benzene – The Steelworkers⁴ urged OSHA to issue a new, more protective emergency temporary standard for benzene, a cancer causing agent produced by the burning of natural products. It is used in the manufacture of plastics, detergents, pesticides, and other chemicals and causes leukemia in those exposed to it. The emergency temporary standard never took effect because of a lawsuit filed by industry, in which the Industrial Union Department, AFL-CIO defended the need for it. A final rule was issued in 1978, but was then vacated by the Supreme Court.

⁴ In July 1995, the United Rubber, Cork, Linoleum and Plastic Workers (URW) merged into the USWA. It was the URW that took the lead in pushing for the Benzene standard.

In 1983, OCAW, the Industrial Union Department of the AFL-CIO, Woodworkers, International Chemical Workers Union, Rubber Workers, Steelworkers, the American Public Health Association and Public Citizen petitioned the Labor Department for an emergency temporary standard to limit workers' exposure to benzene. The petition was denied. The Labor Department issued a request for information in mid 1983. In late 1983, the Labor Department encouraged interested unions, trade associations and other non-governmental parties to try to negotiate a standard. The Reagan White House later intervened to ensure no agreement could be reached. In 1984, the Steelworkers and AFL-CIO petitioned the court to direct OSHA to proceed with rulemaking on benzene in an expedited manner. A new final rule, more protective than the previous rule, was issued in September of 1987.

DBCP – In 1977, PACE⁵ asked NIOSH to do a Health Hazard Evaluation after preliminary results of semen analyses of 27 workers exposed to 1,2-Dibromo-3-Chloropropane (DBCP) indicated severely depressed sperm counts in eleven of the workers. Based on the NIOSH HHE, PACE formally requested that the Labor Department take immediate steps to prevent worker exposure to DBCP. Specifically, PACE requested that exposure be limited to one part DBCP per billion parts of air, and that a broad testing program be implemented to locate incidences of cancer and sterility among workers. A final standard was issued in March 1978.

Inorganic Arsenic – A standard to protect workers from exposure to inorganic arsenic was first issued in 1978. Inorganic arsenic is used in the nonferrous metal smelting, glass and arsenical chemical industries and poses a risk of lung cancer to workers who are exposed to it. As representatives of copper smelter workers, the Steelworkers were heavily involved in this standard. In 1981, after a challenge by industry, the court remanded the standard back to OSHA for reconsideration. The partial stay requested by industry was not granted. In 1984 when the standard was challenged again, the Steelworkers intervened to defend it.

Cotton dust – In 1975, UNITE!⁶ and the North Carolina Public Interest Research Group filed a petition to limit workers' exposure to cotton dust, which causes byssinosis, commonly known as brown lung disease. Citing unreasonable delay, UNITE! filed a motion to compel issuance of a cotton dust standard. In December 1976, OSHA issued a proposed standard. In 1978, a new cotton dust standard reduced permissible dust levels to such an extent that brown lung was virtually eliminated. Following issuance of the final standard, the AFL-CIO challenged two provisions of the standard as too lax, but supported the rest of the standard and went on to defend the standard against industry attacks all the way to the Supreme Court, which ultimately upheld the standard. Meanwhile,

⁵ At that time the Oil, Chemical and Atomic Workers (OCAW).

⁶ At that time the Amalgamated Clothing and Textile Workers union (ACTWU).

when the Reagan administration came in, they tried to rollback the protections offered by the standard. Again, the unions fought successfully to preserve the standard.

Acrylonitrile – Acrylonitrile is used in the production of automotive parts, pipe fittings, drinking tumblers and other housewares items as well as clothing and home furnishings. Acrylonitrile poisoning in humans causes slight jaundice, gastritis, respiratory difficulties, and fatigue. Exposed workers experience respiratory and nervous system effects. Long-term exposure may cause cancer and repeated or prolonged exposure of the skin to acrylonitrile may produce irritation and dermatitis. NIOSH estimates that there are 125,000 people potentially exposed in U.S. workplaces. The AFL-CIO and other unions were involved in the acrylonitrile rulemaking process through written comments and participation in the hearings. The final rule was issued in 1978.

Lead – Lead exposure can cause serious damage to nervous, urinary and reproductive systems. The Steelworkers and the UAW were instrumental in winning a protective lead standard in 1978 for general industry workers. At the time, it was estimated that 835,000 workers would be affected by the standard that cut permissible exposure levels of lead by three-quarters. The Steelworkers, along with the PACE⁷, intervened to defend the standard and sought to have it expanded to cover the construction industry. While the standard was upheld, the court declared that "OSHA would be shirking its statutory responsibilities if it made no effort to protect workers in the construction industry from lead exposure....," The court indicated that as long as OSHA moves to protect construction workers, OSHA has met its duty. However, OSHA dragged its feet so long, the Building and Construction Trades Department (BCTD), AFL-CIO lobbied Congress to include language requiring the Secretary of Labor to issue an interim final lead standard covering the construction industry in the 1992 Housing and Community Development Act. A final rule protecting construction workers from lead was issued May 1993. Also during this time, as the Reagan Administration came into power, they sought to rollback the lead standard. The unions fought vigorously and successfully to protect the standard.

Access to Employee Exposure Medical Records – This rule provides for employee, designated representative, and OSHA access to employer-maintained exposure and medical records relevant to employees exposed to toxic substances or harmful physical agents. In the absence of this data, occupational diseases and methods for reducing exposure were ignored and workers were unable to protect themselves or obtain adequate information regarding the hazards in their workplaces. In 1978 an interim final rule that dealt only with preservation of records was issued. An expanded proposed rule was issued in July 1978. A final rule along with a proposal that applied to the agriculture industry, were issued together in 1980. The Industrial Union Department, AFL-CIO challenged the rule for its lack of coverage of the agriculture industry.

⁷ At that time OCAW.

Several industry groups challenged the rule as well on various issues. In April 1981, the Reagan administration stayed the rule's applicability to the construction industry, followed by interpretations of the rule and a proposed interim modification of the rule that would have weakened it considerably. The unions successfully fought these attempts by the Reagan administration to gut the rule, and the court upheld the rule as well. In September 1988 the final rule was issued. Coverage was never extended to the agriculture industry.

Occupational Noise Exposure / Hearing Conservation Amendment – A by-product of many industrial processes, noise is one of the most pervasive occupational health problems. Exposure to high levels of noise causes hearing loss and may cause other harmful health effects as well. A standard to limit occupational exposure to noise was adopted in 1971. Beginning in 1974, there was movement to revise the occupational noise exposure standard. What was unveiled instead, was a hearing conservation amendment which required noise exposure monitoring, audiometric testing, use of hearing protection devices, education of workers, posting of warning signs and retention of records. When the hearing conservation amendment was finalized in January 1981, OSHA received requests to reconsider the amendment and petitions to stay the amendment. Later that year, OSHA deferred the effective date of the amendment, at which point the AFL-CIO sued to set aside the Secretary's deferral of the effective date and to force implementation of the rule. In 1983, the Reagan administration issued changes to the standard, but due to union intervention, the integrity of the rule was maintained. The Laborers Union and the Building and Construction Trades Department, AFL-CIO have taken the lead in pushing for expanded coverage of the hearing amendment to include the construction industry.

Hazard Communication (Right-to-Know) – After unions lobbied for and 24 states implemented their own right-to-know laws, industry clamored for one single federal OSHA right-to-know law to level the playing field across the states. The 1983 Hazard Communication standard provided workers with the right-to-know about the hazardous chemicals with which they worked through labeling, training, access to written records and material safety data sheets. The initial standard only applied to the manufacturing sector. The Steelworkers challenged the standard to expand coverage to all sectors. The BCTD also played a large role in pushing to extend coverage to the construction industry. Industry fought this expansion, but the court agreed that the scope of the standard should be broadened and directed OSHA to reconsider the application of the standard to non-manufacturing sectors. In 1987, after further intervention by the unions (Steelworkers, AFL-CIO, PACE⁸) and Public Citizen, the scope of the standard was expanded to cover all sectors. This same court decision also greatly restricted industries' use of the trade secret defense to hide information. Now, workers and their communities have the right-to-know about the potential hazards of toxic chemicals used by manufacturers and employers.

⁸ At that time OCAW.

The United Mine Workers of America (UMWA) and the United Steelworkers of America (USWA) jointly petitioned MSHA in 1987 to adapt OSHA's Hazard Communications standard in both coal and metal and non-metal mines. It was not until June 2002, that mine workers received the same access to information afforded other workers.

Ethylene Oxide – Public Citizen and AFSCME, responding to a number of studies in the late 70's and early 80's showing that Ethylene Oxide, a sterilizing gas used primarily in hospitals, was a human carcinogen, petitioned OSHA in 1981 for an emergency temporary standard to reduce the EtO PEL from 50 ppm to 1 ppm. OSHA denied the petition, but agreed to issue an advanced notice of proposed rulemaking (ANPR). An ANPR was issued in 1982, but there was little activity toward an actual proposal. Public Citizen and AFSCME sued the agency and in 1983 the courts ordered OSHA to issue a proposal within 30 days and a final standard within a year. The final standard, reducing the 8-hour TWA to 1 ppm was issued in June 1984, but despite overwhelming evidence, the White House (OMB), at the last minute, refused to allow a Short Term Exposure Limit (STEL). Public Citizen and AFSCME sued OSHA again and in 1986 the Court ordered OSHA to issue a STEL or justify its decision not to. In 1988 a revised standard was issued, containing a STEL. While AFSCME took the lead among the unions, other unions in the petition and lawsuits were: SEIU, 1199 (RWDSU), and UNITE!⁹.

Hazardous Waste Operations and Emergency Response – The AFL-CIO and the Building and Construction Trades lobbied to include language in the Superfund Amendments and Reauthorization Act of 1986 (SARA) requiring the Secretary of Labor to issue an interim final rule to protect workers engaged in hazardous waste operations. It further directed that within one year after enactment of SARA, a final standard for the health and safety of workers involved in hazardous waste operations and emergency response should be in place. The unions were particularly instrumental in stressing the relevance of training employees in order to better protect them. When the rule was adopted, OSHA estimated some 1.75 million workers would benefit from these new protections.

Commercial Motor Vehicle and Safety Act - The Teamsters were actively involved with the drafting and passage of the Commercial Motor Vehicle and Safety Act of 1986 with the House Surface Transportation Subcommittee. This required the creation of a single Commercial Driver's License to replace the many state licenses that some commercial drivers had used.

Field Sanitation – Agriculture workers who work planting, harvesting and processing crops won new health protections in 1987 when a field sanitation standard was issued. The National Congress of Hispanic Americans and several

⁹ At that time ACTWU.

other organizations first petitioned the Labor Department in 1972 for a standard to require agricultural workers in the field access to potable drinking water, toilets and hand washing facilities. Litigation by the National Congress of Hispanic Americans began in 1973 when they sought to compel OSHA to make a decision about issuing a standard. Litigation continued while OSHA issued a notice of proposed rulemaking in 1976, withdrew it, and again proposed rulemaking before the Reagan Administration made a final determination not to issue a federal standard. But in 1985, the Farmworker Justice Fund and 28 other organizations petitioned OSHA for reconsideration. After months of reconsideration and continued legal battles, in 1987, the U.S. Court of Appeals for the DC Circuit ordered the Secretary of Labor to issue a federal field sanitation standard within 30 days.

Mechanical Power Presses – Until 1988, when the Presence Sensing Device Initiation of Mechanic Power Presses final rule was issued, thousands of mechanical press operators were at high risk of losing their fingers or hands in power press amputations due to improperly guarded power presses. In 1971, OSHA adopted the ANSI standard in its entirety as a Federal regulation. Around 1973, industry petitioned OSHA to revoke the “hands out of point of operation” requirement for power presses. Though the UAW testified in opposition to industry’s petition (in Congress and at OSHA public hearings), OSHA revoked the prohibition on the “no hands in dies” requirement of the standard (1910.217 (d)(1) and (2)). The AFL-CIO challenged this action in court. The reasoning justifying the change was generally upheld in court, and remanded back to OSHA only for an additional justification.

Grain Handling Facilities – A series of grain handling explosions devastated the country in late 1977 and early 1978. Hundreds of workers, including 13 USDA inspectors, died and were injured in grain explosions. Unions stepped up training and education of its members in the industry to increase their safety and health awareness. A grain handling standard was issued in 1987 to eliminate or reduce the risk of fires and explosions in grain-handling facilities. The Food and Allied Service Trades Department, AFL-CIO, along with the American Federation of Grain Millers, the United Food and Commercial Workers, the Retail, Wholesale, Department Store Union, the Transportation-Communication International Workers, the International Brotherhood of Teamsters, the Allied Industrial Workers, and PACE¹⁰, challenged the action level in the standard as not going far enough to protect workers. Industry claimed that the action level was not justified. The court remanded the standard back to OSHA for further consideration of the action level. In 1989 OSHA issued a final rule that justifies its original action level for priority areas.

Control of Hazardous Energy (Lock Out/Tagout) – In 1979, the UAW, along with the AFL-CIO, Allied Industrial Unions and the Steelworkers, petitioned OSHA for an emergency temporary standard to protect workers when they are

¹⁰ At that time OCAW.

servicing or maintaining equipment. The petition for an ETS was denied, but rulemaking began in 1980 with an advanced notice of proposed rulemaking. A final rule was issued in late 1989. Both industry and labor challenged the standard. Both labor (UAW and OCAW) and industry challenged the regulation on a variety of issues. The standard was remanded back to the agency for an explanation, but largely upheld as originally issued. The final rule is estimated to prevent 120 deaths and 50,000 injuries each year.

Formaldehyde – In 1981, the UAW and 13 other unions petitioned the Labor Department to issue an emergency temporary standard to protect workers from the hazards of formaldehyde - a human carcinogen linked to nasal and lung cancer, and with possible links to brain cancer and leukemia. Workers in a variety of industries are exposed to formaldehyde. After the petition was denied by the agency in 1982, the UAW filed a lawsuit to force OSHA to reconsider. In 1985, the U.S. Court of Appeals D.C. Circuit forced OSHA to reconsider the UAW's request for an emergency temporary standard and to begin permanent rulemaking procedures. Once again, the Reagan administration denied the petition and but for continued pressure by UAW, the standard would not have been issued. Following its issuance in 1987, the UAW, UNITE!¹¹, Molder and Allied Workers and Public Citizen challenged the standard as not sufficiently protective. A court decision in 1989 agreed and forced OSHA to strengthen the rule by lowering the permissible exposure limit and adding medical removal protection. The final rule was issued in 1992.

Bloodborne Pathogens – Unions sought protections for workers who were being exposed to HIV/AIDs. In 1983, OSHA issued voluntary guidelines to protect health care workers from exposure to infectious diseases. In 1986, AFSCME, SEIU, the National Union of Hospital and Health Care Employees and RWDSU Local 1199 petitioned the Labor Department for a standard. (AFSCME petitioned for an ETS and the others to initiate rulemaking.) Both petitions were denied. Following continued pressure by the unions, in 1991, OSHA issued a final rule on bloodborne pathogens. The unions defended the standard in court after it was challenged by the American Dental Association and other health care industry organizations. The rule was estimated to protect some 5.6 million health care workers and others who were potentially exposed to bloodborne pathogens and prevent some 9,000 infections and 200 deaths per year.

In 2000, a coalition of health care unions including, SEIU, AFSCME, United American Nurses, United Federation of Teachers, American Federation of Government Employees and the UFCW fought for and won new protections to prevent accidental needlestick injuries resulting from poor syringe design and improper needle disposal after Congress passed the Needlestick Safety and Prevention Act directing OSHA to revise the Bloodborne Pathogens standard. The victory came after years of grassroots efforts by health care unions, who successfully lobbied lawmakers in 15 states to pass safer needle laws.

¹¹ At that time ACTWU.

4,4'-Methylenedianiline – In 1983, EPA issue an advanced notice of proposed joint rulemaking with OSHA to protect workers from exposure to Methylenedianiline (MDA) which increases ones risk of cancer. This was the first mediated (or negotiated) rulemaking at OSHA. Unions involved in the rulemaking included UAW, USWA, IAM and the Carpenters. The final rule was issued in 1992.

Cadmium – Workers exposed to cadmium faced a significant risk of lung cancer and kidney damage. Battery factory, smelter and alloy factory workers are among the workers exposed to cadmium. In 1986, the International Chemical Workers Union (ICWU) joined Public Citizen's Health Research Group in a petition to the Labor Department for an emergency temporary standard to limit workers exposure to cadmium. Nearly a year later, the petition was denied, but the agency agreed to proceed with a permanent rulemaking. After another two years of delay, Public Citizen and ICWU filed a petition with the court to compel OSHA to issue the proposed and final standards by specific dates. The court ordered OSHA to file a report on the status of the standard along with the expected date for a final rule. In 1990, OSHA issued a proposed rule, and in February 1992 asked the court for a 6-month extension for issuing the final rule. Public Citizen and ICWU moved to have the court impose a deadline for OSHA to issue the final standard, which it did. The final standard was published ten months after the deadline.

Chemical Process Safety Management – Unions lobbied for the Clean Air Act Amendment that required the Secretary of Labor to issue a standard that requires the management of hazards associated with processes using highly hazardous chemicals. The standard, issued in 1992, is designed to protect workers from toxicity, fires, and explosions that often result from catastrophic releases of highly hazardous chemicals in the workplaces. USWA, ICWU, PACE¹² were all involved in this rulemaking.

Permit-Required Confined Spaces – Those who work in confined spaces face increased risk of exposure to serious hazards as well as entrapment hazards from the confined space itself. These hazards are more likely to result in fatalities rather than sustained injuries. Many victims of confined space deaths are those who try to rescue the person in the confined space. An advanced notice of proposed rulemaking was first issued in July 1975. In March 1980, OSHA issued an ANPR for construction. The notice of proposed rulemaking on confined spaces was issued in June 1989. Hearings were held in Washington, DC, Houston, TX and Chicago, IL between November 1989 and February 1990.

The confined space standard for general industry was issued in the closing days of the 1st Bush Administration (January 1993). The Steelworkers sued OSHA because the provisions for rescue workers were inadequate. The Steelworkers

¹² At that time the Oil, Chemical and Atomic Workers (OCAW).

and OSHA negotiated a settlement, and the record was reopened to make the agreed upon improvements to the rule.

Personal Protective Equipment – Standards for personal protective equipment were adopted in 1971 from established Federal standards and national consensus standards. It became apparent that the standards were outdated, contained gaps in coverage, were restrictive in a way that prevented new technology from being used and that those who wore PPE were still being injured. In August 1989, OSHA issued a notice of proposed rulemaking to revise the standards for eye and face protection, head protection and foot protection. Hearings were held in April 1990. In 1996, a PPE in shipyards standard was issued.

Payment for Personal Protective Equipment (PPE) – Payment for safety gear is a particular problem for low wage workers, especially new immigrants who are in some of the lowest paying, most hazardous, primarily non-union jobs. In 1994, after the personal protective equipment standard was issued, the UFCW had requested clarification of the PPE standards on the issue of payment for mesh gloves. OSHA issued a memorandum clarifying that it was the employer's obligation to provide and pay for PPE, except in limited situations. In 1997, however, an OSHA Review Commission decision found the requirements in the OSHA standards to provide PPE were vague. OSHA began rulemaking in 1999. Comments were solicited and public hearings were held that year. Unions that participated in the rulemaking process included the UFCW, Steelworkers, UAW, AFL-CIO, Building and Construction Trades affiliates, Teamsters, Electrical Workers and the Utility Workers. The proposed standard has been in limbo for three years. The Bush Administration recently classified the proposed standard's status as inactive. In April 2003, the UFCW along with AFSCME, United American Nurses/ANA, BCTD, Teamsters, UNITE!, UAW, USWA and the AFL-CIO petitioned OSHA to complete and issue the final rule.

1,3-Butadiene – In 1984, the Steelworkers¹³, PACE¹⁴, ICWU and the AFL-CIO petitioned the Labor Department to issue an emergency temporary standard to protect workers from exposure to 1,3-Butadiene. Butadiene is a chemical produced through the processing of petroleum and is mainly used in the production of synthetic rubber. Exposure to high levels of butadiene for a short time can cause damage to the central nervous system, blurred vision, decreased blood pressure and unconsciousness. Exposure to lower levels over a period of time may cause heart and lung damage. In 1990, OSHA issued a proposed rule on Butadiene followed by hearings during the first part of 1991 and the comment period closed in early 1992. It was not until after a release by the International Agency for Research on Cancer in the Fall of 1992 provided new evidence to the carcinogenic effects of butadiene, that the industry felt pressure to deal with the issue. At that point, union (ICWU and the Steelworkers, who had by then merged with the rubber workers) and industry representatives worked together to

¹³ At that time URW.

¹⁴ At that time OCAW.

outline the rule. The agreement proposed to lower the permissible exposure limits, to add more provisions for exposure monitoring, and included an exposure goal program designed to reduce exposures below the action level. It also set forth other modifications to the scope, respiratory protection, communication of hazards, medical surveillance, and start-up dates sections of the final rule, which was issued in 1996.

Methylene Chloride – In 1985, the UAW petitioned OSHA to issue a hazard alert, an emergency temporary standard and to begin work on a permanent standard to protect workers from exposure to methylene chloride. Methylene chloride is widely used in paint removers, degreasing agents, and aerosol propellants; as a blowing agent in flexible urethane foams; as a process solvent in the manufacture of pharmaceuticals and food products, including the decaffeination of coffee; and as a fumigant for grains and fruits. An estimated 1 million workers are potentially exposed to methylene chloride or to products that contain this chemical. The UAW was joined in its petition by the International Union, Allied Workers of America, Glass, Pottery, Plastics and Allied Workers, United Furniture Workers, the Newspaper Guild, Communication Workers of America and the United Steelworkers of America. In May 1986 OSHA issued a Guideline for Controlling Exposure to MC, followed in November by an advanced notice of proposed rulemaking. The final rule was not issued until 1998.

Postal Worker Safety – Postal workers had been excluded from protection under the Occupational Safety and Health Act established in 1970. In 1998, after a successful campaign by the nation's postal unions and their more than 1 million members, Congress passed legislation to amend the OSHA statute to bring the U.S. Postal Service under OSHA jurisdiction.

Motor Carrier Safety Improvement Act - The Teamsters were actively involved with the drafting and passage of the Motor Carrier Safety Improvement Act of 1999 [Public Law No. 106-159, 113 Stat. 1748 (December 9, 1999)], which established the Federal Motor Carrier Safety Administration within the Department of Transportation on January 1, 2000. This Act created an administration that was on equal standing to the administrations responsible for all other modes of transportation.

Ergonomics – By the mid 1980s it was clear that repetitive strain injuries were a growing problem, particularly in the meatpacking industry. The United Food and Commercial Workers (UFCW) filed OSHA complaints against several of their meat processing plants and won settlement agreements that required employers to implement an ergonomics program. In 1990, OSHA issued voluntary guidelines for the meatpacking industry, which were developed with a great deal of help from UFCW. In July 1991, The UFCW, AFL-CIO and 29 other labor organizations petitioned OSHA for an emergency temporary standard and a permanent standard to protect workers from ergonomic hazards. While the petition for an emergency temporary standard was denied, in 1992 the Labor

Department issued an advanced notice of proposed rulemaking. Soon thereafter, business groups began organizing their opposition to an ergonomics standard. At the same time OSHA was circulating a draft proposed ergonomics standard, business groups were lobbying Congress to prevent OSHA from developing an ergonomics standard. Unions worked tirelessly to defend the need for a standard in Congress, helped shape the proposal to make it as strong and protective as possible and later to defend the proposed standard that was finally issued in 1999. The unions brought in more than 100 workers were brought in to testify at the public hearings on the need for an ergonomics standard. Even though the proposed rule did not cover the construction industry, the Laborers provided comments to OSHA to document the numerous ergonomic hazards faced by construction workers. The final rule, issued in November 2000, became law in January 2001, but with the Bush Administration in power, industry groups and Republican opponents were able to overturn the rule. On April 25, 2001, the AFL-CIO along with 50 other organizations (30 of them labor organizations) again petitioned the Labor Department to issue a standard to protect workers from ergonomic hazards in the workplace. The Labor Department has never responded.

Procedures for Transportation Workplace Drug and Alcohol Testing Programs – The Department of Transportation first issued its drug testing procedures regulation as an interim final rule in 1988. The rule was then based on guidelines from the Department of Health and Human Services. A year later, after receiving comments, a final rule was issued. After adding alcohol testing procedures in 1994, and issuing a significant amount of guidance on the issue, in 1996, DOT issued a new proposed rule. The language in the Teamsters' National Master Freight Agreement was used as a model for the drug and alcohol-testing program developed by the Department of Transportation. The Teamsters, leading the fight against drug abuse in the motor carrier industry, had negotiated a substance abuse program, which encompassed both drug testing and rehabilitation for workers with substance abuse problems. The final rule was issued in December 2000.

Occupational Injury and Illness Recordkeeping and Reporting Requirements – The Occupational Safety and Health Act requires that employers keep records on work-related injuries and illnesses and since 1972 DOL has had regulations outlining these requirements. The January, 2001 revised recordkeeping regulation updates these long-standing requirements and is the result of a 15-year process to improve injury and illness recordkeeping and data, that involved an extensive dialogue between industry groups, unions, OSHA, NIOSH, BLS and state agencies. The new recordkeeping rule basically simplifies and clarifies recording criteria and forms and codifies the criteria in the regulation itself. On June 29, 2001, the Bush administration proposed to stay until January 1, 2003, the definition of musculoskeletal disorder (Section 1910.12) and the requirement to identify MSDs on the log of injuries and illnesses. It has also proposed to postpone the requirement to record a shift of

10 decibels or more as hearing loss (Section 1910.10), while the department reconsidered both issues. The unions opposed the stay, which was once again implemented for most of the same provisions for another one-year period in December 2002. The rest of the revised recordkeeping standard went into effect as scheduled on January 1, 2002. On June 30, 2003, the Bush Administration made final the deletion of the MSD definition and the requirement to identify MSDs on the log.

Steel Erection – Federal standards to protect construction workers were initially promulgated under the Construction Safety Act (CSA), an amendment to the Contract Work Hours and Safety Standards Act of 1969. When the OSHA Act was passed, OSHA adopted the construction standards issued under the CSA. Subpart R of the CSA standards dealt with Steel Erection. OSHA made several initial attempts to revise provisions of the steel erection standard, but never got further than discussions with its Advisory Committee on Construction Safety and Health. In 1988, OSHA issued an advanced notice of proposed rulemaking on steel erection. In 1990, stakeholders petitioned OSHA to move forward with a negotiated rulemaking to protect employees from steel erection related hazards such as working under loads; hoisting, landing and placing decking; column stability; double connections; hoisting, landing and placing steel joists; and falls to lower levels. The negotiated rulemaking process finally began after the committee was established in May 1994. Representatives of the International Association of Bridge, Structural & Ornamental Ironworkers, International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers & Helpers, Building and Construction Trades Department (AFL-CIO), United Steelworkers of America, International Union of Operating Engineers were participants in the negotiated rulemaking. The final rule was issued in 2001. The Ironworkers were involved in implementation and training OSHA inspectors on the standard.

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