

MEMORANDUM OF UNDERSTANDING

Introduction:

This is a Memorandum of Understanding (MOU) entered into between the U.S. Department of Labor (DOL) and the National Council of Field Labor Locals (NCFLL), AFGE, AFL-CIO, in accordance with Article 57, Section 2.A. of the master DOL-NCFLL Agreement. This MOU modifies the provisions in Article 34 (Safety and Health) and is appended to it.

Terms of Agreement:

A. Supplementary Office Inspection Procedures:

1. The Department will submit to the respective RCBCs its annual safety and health inspection plans for their regions 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 RCBCs in a timely manner.
2. For each respective region, at the beginning of the fiscal year, the affected RCBC 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 RCBC will be contacted and afforded an opportunity to designate an alternate NCFLL representative.
3. Designated NCFLL safety and health representatives will be granted official time and travel expenses consistent with the provisions of Article 8 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.
4. 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.
5. 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 2 A.3.

B. Supplementary Regional Safety and Health Committee Procedures:

1. The Department will ensure that NCFLL regional safety and health committee members are provided with appropriate training to enable them to perform their duties as specified by 29 CFR 1960. NCFLL regional safety and health committee members will be granted official time and travel expenses, consistent with the provisions of Article 8, to take part in this training. The Department will provide a report of this training to the NCFLL on an annual basis.
2. The parties may by mutual agreement establish auxiliary safety and health committees for specific purposes, i.e., site committees for Voluntary Protection Program activities, office specific committees such as those established by the parties for the Office of Workers Compensation Programs field offices, etc. Such committees will operate under the mutually agreed upon provisions and will report their activities to the appropriate regional safety and health committee.
3. The parties agree to follow the procedure below to resolve issues raised by half or more of a regional safety and health committee under the provisions of 29 CFR 1960.40 (b) (9) & (10).

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.

OASAM Regional Safety and Health Managers, affected supervisors and other professional field staff will be afforded reasonable time to respond to reports of hazardous conditions, as specified in Executive Order 12196. The affected DOL regional 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 regional committee meetings.

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 Regional Administrator – OASAM who will consult with appropriate agency official(s) to resolve the unsafe/unhealthful condition. The RA – OASAM will be afforded a reasonable amount of time to respond back to the complainant.

In accordance with 29 CFR 1960, if, after affording the RA-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 affected regional 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 RA-OASAM and other affected officials of its actions in writing. These other officials will include the President of the NCFLL.

The Secretary will advise the referring regional safety and health committee members and the President of the NCFLL of what actions will be taken within 15 work days 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 chose to initiate the expedited fact finding arbitration procedure below.

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 below.

If there is a timely response, 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.

C. Expedited Fact Finding Arbitration Procedure for Unresolved Issues:

1. 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 (such as those involving the life safety codes or sick building syndrome.) The Expedited Fact Finding Arbitration Procedure may be invoked after use of all established procedures, including the Supplementary Regional Safety and Health Committee Procedures described above, has not resolved the issue.
2. 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).
3. The Department would be afforded 10 workdays to make a final resolution of the matter. If the Department cannot achieve this resolution with in 10 workdays, arbitration is automatically invoked.
4. 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 soliciting a list of potential arbitrators, the NCFL, on behalf of both parties, will make the following requests of AAA:

- a. A list of three potential arbitrators from the area where the serious conditions exist should be provided to both parties.
- b. Arbitration hearings should be held at or near the site where the serious conditions exist.
- c. The arbitrators should have experience in handling safety and health issues.
- d. 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.

5. 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 NCFL President to serve as the union fact finder. The NCFL representative and the OASAM National Office of Safety and Health team leader will mutually schedule the on-site visit. The NCFL 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 NCFL national officers the Department will pay any associated travel

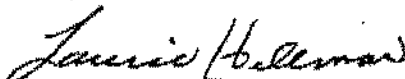
expenses.) Before conclusion of the site visit, team members will meet to share information received during the site visit on the safety and health matters at issue.

6. 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 Part C of this Agreement. Negotiations on the reopener will begin within sixty (60) days of receipt by the other party of such written notice.

Implementation Dates and Procedures:

1. The provisions of this MOU will become effective 30 days after it is signed. The Department will ensure that this MOU is distributed to all NCFLL bargaining unit employees.
2. The mutual sharing of inspection plans and lists of designated NCFLL representatives will be initiated by the parties as soon as possible for the current fiscal year. For fiscal year 2005 and subsequent annual DOL safety and health inspection cycles the parties will share this information no later than the last business day of the preceding fiscal year.
3. The Department will implement appropriate training for NCFLL designated safety and health representatives and regional safety and health committee members specified in this MOU as soon as possible. The initial training for current representatives and committee members will be completed no later than April 1, 2005.
4. The NCFLL will incorporate safety and health training on current topics into its core curriculum as soon as possible but no later than April 1, 2005.

FOR THE DEPARTMENT:


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Gregory LeFever, OASAM



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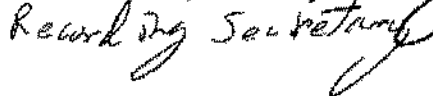
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7-30-04
DATE