



Health and Safety **Guidelines**

Guide for Health and Safety for Committee Members and Representatives

CUPE / *Canadian Union
of Public Employees*

Health and Safety Branch



IMPORTANT NOTE: This guide is intended to provide you, the reader, with information about health and safety and to provide you with guidance towards additional tools found in the Health and Safety Committee kit to address issues within your workplace. This is only a guide and is not intended to replace the advice of a knowledgeable health and safety professional. Always seek guidance from your Local, your CUPE National Representative or the CUPE National Health and Safety Specialist in your area before taking on contentious issues.

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Introduction

Health and safety is an essential part of the important work that CUPE and CUPE locals and members do to ensure a safe and secure work and workplace environment for everyone. CUPE members face a wide range of hazards while on the job. Worker involvement is the real key to resolving health and safety problems because front line workers have a unique understanding of health and safety hazards in the workplace. CUPE provides tools, resources and training to help committee members and health and safety representatives help our members to stay healthy and safe at work and to encourage activism.

Occupational health and safety committee members and representatives play an important role within their local unions. They are advocates for healthy and safe work and can participate in recognizing, evaluating, and recommending controls to hazards found throughout the work and the workplace.

As a CUPE member doing the important work of occupational health and safety, it's important to remember occupational health and safety is about the *occupation*, not the *place*. When CUPE refers to health and safety, the consideration must be for *all* aspects of health and safety that relates to the work, not just of the *workplace*. Focusing on only the building or the place where the work is being done and making that safe. But keep in mind that it's the work that needs to be safe, and focus not only on the *where*, but also the *who*, the *how*, the *when* and the *why*. Health and safety activists must be concerned with all the aspects of work, regardless of *where* that work is taking place. This includes the physical, mental and organizational aspects of the work.

Sometimes health and safety struggles can seem overwhelming. Just remember, you are not expected to be an expert or to have all the answers. You are expected to share the experience of workers working in your workplace – that's your expertise and your strength. Workers are the experts in the work they do in their workplace – that's an important point of view to have if the goal is to make work safer in the workplace. And, most of all, keep in mind that you are not alone. Your CUPE Local union, CUPE Division, CUPE National, and many other labour organizations and agencies can help.

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Though this guide and accompanying kit focus on health and safety *committees*, much of the information provided will be applicable to smaller workplaces that have health and safety *representatives*.

This guide has been setup into three parts. The first section will review basics concepts that the CUPE health and safety department believes all members should be familiar with. The second section will cover the selection and makeup of committees, while the final section covers off descriptions of specific activities committee members will perform.

It's important to understand that what are being presented are concepts of health and safety. Always make sure to check your jurisdiction's legislation and regulations for any requirements.

Part I: Basics of Health and Safety Legislation

Health and safety 'rights' are granted to workers through laws. However, laws can change and while every CUPE member is covered by an occupational health and safety law and related regulations, not every CUPE member has the same laws. This may be true even for different workers in the same workplace or in the same jurisdiction.

Jurisdiction

Not all work is covered by the same health and safety legislation. The federal government enforces health and safety in workplaces where the work is defined as "federal work, undertaking or business". Part II of the Canada Labour Code (which is federal health and safety law) cover workers that:

- are employed directly by the federal government,
- work for federal Crown corporations (like Canada Post),
- work in sectors such as transportation that cross provincial lines (including air railways, ferries, buses), airports/airplanes, most telecommunications and banks, work done on reserves, grain elevators, nuclear power generation and a great deal of the oil and gas sector.

Workers in sectors like air transport or telecommunications would fall under federal jurisdiction, not the provincial jurisdiction in which they live or work. If not a worker doing work defined under the Canada Labour Code, they most likely are covered by the Occupational Health and Safety Laws of the province where they work.

Act vs Regulations

In most jurisdictions, the Health & Safety Act is the main health & safety law. The Act provides general requirements and principles that must be followed. Regulations provide clarification and generally give more detail in how specific sections of the act should be applied. Regulations serve to carry out the specifics of the act and frequently apply to a specific hazard or task or type of workplace.

Regulations cannot conflict with any aspect of the act. In non-legal terms, an Act has control over a Regulation. If ever there is a conflict between the two, the Act always win.

Acts also allow governments to make or change regulations without the need to have them approved by the legislature. That's why regulations can change so quickly when there is a change in government.

Worker Rights

Workers have several rights provided to them through legislation. The best known three are generally referred to as the 'Three R's' and put simply they are:

- the right to know;
- the right to participate, and
- the right to refuse.

Additionally, CUPE always points out that workers can not face reprisals for complying with health and safety laws. Finally, CUPE has always pushed for workplaces to follow a precautionary principle.

The Right to Know. The first principle is that workers have the right to know what health and safety hazards are related to the work. It is an employer's duty to tell workers of any hazards they may encounter, the likelihood of being exposed, and the severity of harm if they are exposed. Additionally, they must ensure that workers know how to safely deal with them if the hazards cannot be avoided.

Workers have the right

- *To know*
- *To participate*
- *To refuse*
- *To be free of reprisal*

The Right to Participate. Workers also have the right to participate in the decision making that impact their health and safety. It is every worker's right and responsibility to healthy and safe work and that means having worker input on health and safety hazards, hazards assessments and recommendations on how to fix or control them. In a practical sense, this is done by workers electing/appointing a union health and safety representative to discuss health and safety issues with the employer or having worker committee members on the Joint Health and Safety Committee. The right to participate also means that workers must report hazards they become aware of to their supervisor, health and safety representative or committee member. Additionally, workers are required to work in a safe manner, follow safety rules and co-operate with the health and safety committee or any regulatory body.

The Right to Refuse. And finally, workers have the right to refuse to perform work that they believe is unsafe either for themselves or for their co-workers. While procedures and circumstances around the right to refuse may be different from province to province, just about all workers have the legal right to say no to dangerous work. In some jurisdictions, the law *obligates* workers to protect their own safety by refusing to perform work that they believe could harm themselves or others at the worksite. It's important to note, that in many jurisdictions, the right refuse work may be limited if by refusing to perform a task, another persons is directly put in danger. It's also important to be aware that employers are not allowed to discipline workers for exercising the right to refuse (see next section). It should also be noted that no other worker should be assigned to do the refused work unless they have been informed of the work refusal and the reasons for it. In most jurisdictions, the committee has an important role to play investigating work refusals. For more information about the right to

refuse, see the additional fact sheet in the Committee Kit, contact a CUPE Servicing Representative, CUPE National Health and Safety Representative, or visit our website at <http://cupe.ca/refusing-unsafe-work-its-your-right>.

The Right to No Reprisal. All jurisdictions have language in their laws that makes it illegal for employers to punishing workers when they are following the occupational health and safety laws in good faith. This includes reporting hazards, participating on a committee, and exercising the right to refuse dangerous work. This is an important right because a worker who fears punishment for protecting their health and safety will be less likely to participate in the employer's system.

Some jurisdictions have made it clear that if workers are intentionally misusing health and safety rights (acting maliciously or filing trivial or frivolous claims) to disrupt the workplace, that those workers can be disciplined. Fortunately, it is not the practice of CUPE members to engage in this type of behaviour.

Precautionary Principle. A simplified version of the precautionary principle would be that, "we don't need to wait to be 100% sure of all the possible dangers before we take actions to protect workers from a hazard." The precautionary principle is not explicitly stated in law. However, health and safety legislation does direct employers to "take every precaution reasonable (or practicable) for the safety of a worker". This means the precautionary principle *should* be the priority in keeping our members safe.

The precautionary principle has four parts:

- People have a duty to act to prevent harm before it happens. If there is a reasonable suspicion that something bad may happen, then there is an obligation to try to prevent it.
- Proving that something isn't dangerous (a new technology, process, activity, or chemical) is the responsibility of those who want to use or introduce it (in most cases the employer), not with the workers.
- Before using a new technology, process, or chemical, or starting a new activity, there should be an examination a full range of alternatives, including the alternative of doing nothing.
- Decisions applying the precautionary principle must be opened, informed, and democratic and must also include affected parties.

A very real example of the failure of applying this principle occurred in 2007, when in Ontario, health care employers did not have a system that allowed for the automatic use of N95 respirators at the outset of a potentially airborne illness. Additionally, they were slow to adopt such procedures and to train workers until they were 'more certain' about the routes of infection. This contributed to the SARS outbreak killing 44 and resulting in approximately 330 cases of serious lung diseases. When confronted with a hazard, committees should consider the hierarchy of controls (explained later in this document).

The General Duty Clause

In all jurisdictions, the responsibility of ensuring that a workplace is safe lies with the employer. Provincial and Federal occupational health and safety legislation all contain a “general duty” clause which holds employers legally responsible for providing healthy and safe work.

This is a powerful clause. Because of it, an employer that is aware of a health and safety hazard must take reasonable steps to make it safe. Employers are legally obligated to share information about the hazards that are present in their work or worksites. Once they have shared that information, a worker must be trained by the employer, at the employer’s cost, on how to deal with those hazards safely.

Employers must take all reasonable steps under the circumstances to protect workers against hazards and ensure compliance with occupational health and safety laws. They must be able to demonstrate that they have done their due diligence when it comes to protecting workers from hazards in the workplace (a full explanation of due diligence is found later in this guide).

Legislated Role of the H&S Regulator

All legislations outline how the government will ensure that the laws are followed. The enforcement of legislations, as well as the legal authority to enforce, is delegated to a group called regulators¹. In general, regulators are tasked with the following abilities:

- 1. Routine inspections.** An Inspector may visit any worksite covered by the laws of their jurisdiction for routine or surprise inspection. They are not required to call ahead, and do not require a warrant to enter the workplace.
- 2. Investigate Complaints.** When anyone observes a violation of the health and safety laws, they can contact a regulator who can investigate the reported complaint.
- 3. Refusals.** When a worker invokes their right to refuse to work because of danger and the employer won’t agree that there is a possible harm, it is the regulator that makes the final decision as to whether the refusal has merit, or if the worker must return to work. Workers can appeal that decision if they don’t agree with it, but it is recommended they seek assistance before they do.
- 4. Investigations.** Laws or Regulations describe when employers *must* notify the regulators about incidents and dangerous occurrences. If an Inspector investigates an incident, the committee or representative has an opportunity to inform the officer about concerns. The officer will provide a report to the employer and committee or representative about each visit, and may also write orders pointing out non-compliances (where the employer is breaking the law). In serious circumstances, the Inspectors may even write stop work orders.

¹ Regulators go by many names in the various jurisdictions include Inspectors, Health and Safety Officers, OHS Officers, etc.

5. Failure of the committee. If the committee cannot function effectively, an inspector should be asked for help. A dysfunctional committee is a sign of deeper problems with the internal responsibility system (IRS). Though not as common as in the past, an inspector can intervene and mediate disagreements so that the committee can return to a functional state.

6. Disputes. An inspector can intervene to resolve conflict in the committee. If necessary, an officer can issue a notice of contravention requiring the employer (or anyone else covered by the legislation) to take corrective action.

Table 1: Legislative summary of general duty clause	
Alberta	2(1) Every employer shall ensure, as far as it is reasonably practicable for the employer to do so, (a) the health and safety of (i) workers engaged in the work of that employer, and
B.C.	115 (1) Every employer must (a) ensure the health and safety of (i) all workers working for that employer,
Manitoba	4(1) Every employer shall in accordance with the objects and purposes of this Act (a) ensure, so far as is reasonably practicable, the safety, health and welfare at work of all his workers;
New Brunswick	9(1) Every employer shall (a) take every reasonable precaution to ensure the health and safety of his employees;
Newfoundland & Labrador	4. An employer shall ensure where it is reasonably practicable, the health, safety and welfare of his or her workers.
Nova Scotia	13 (1) Every employer shall take every precaution that is reasonable in the circumstances to (a) ensure the health and safety of persons at or near the workplace;
Prince Edward Island	12. (1) An employer shall ensure (a) that every reasonable precaution is taken to protect the occupational health and safety of persons at or near the workplace;
Ontario	25(2) Without limiting the strict duty imposed by subsection (1), an employer shall, (h) take every precaution reasonable in the circumstances for the protection of a worker;
Saskatchewan	3 Every employer shall: (a) ensure, insofar as is reasonably practicable, the health, safety and welfare at work of all of the employer's workers;
Federal	124. Every employer shall ensure that the health and safety at work of every person employed by the employer is protected

The Internal Responsibility System (IRS)

The Internal Responsibility System is the philosophy by which all jurisdictions apply health and safety laws.

The foundation of the IRS philosophy is that everyone in the workplace has a role to play in health and safety and that the workplace parties are most likely to find effective solutions when they

work together. The IRS puts in place a worker-employer partnership intended to have employers and workers deal with health and safety issues internally via the health and safety committee, working together towards the common goal of safer workplaces. A good IRS in the workplace:

- Establishes systems to address and resolve problems
- Promotes a safety culture
- Promotes best practices
- Ensure compliance

The IRS can be thought of as a three-legged stool. When all parts of the IRS are prepared to participate in a system that promotes the health and safety of workers, the system can work well and the stool is balanced. This means workers are reporting hazards and following the rules, employers are working to keep workers safe, and the health and safety committee are performing their legislated tasks and providing their advice and recommendations towards a healthy and safe workplace.

While the original intentions of the IRS may have been noble, application of this philosophy has not always been to the advantage of workers.

While the original intentions of the IRS may have been noble, application of this philosophy has not always been to the advantage of workers. To begin with, it is based on the principle that everyone at the health and safety committee table is equal. However, in practice, this is not the case. Workers must make recommendations to the employer to fix something, they cannot order it done. That process ensures that employers are the decision-makers. For example, the recognition in law of the three worker rights to health and safety came only after decades of pressure from the union movement and its political allies. Unfortunately, this achievement is limited in practice by the Internal Responsibility System's attempts to encourage voluntary compliance with the Health and Safety Act and Regulations.

Specifically, health and safety laws give workers the right to participate on Joint Health and Safety Committees, but there is *no obligation* to employers to carry out the committee's recommendations. Occupational Health and Safety laws are based on the assumption that employers will act in good faith and obey health and safety laws. It fails to recognize that workers and employers have vastly different interests and knowledge of the work in the workplace – workers know the work and how it is done on the floor while the managers and supervisors who decide how work is done are often removed from the floor. Since management has more power but may lack first-hand exposure to the work-related hazards, the definition of what is 'safe' often does not favour the worker.

The vagueness of some sections of the Act and Regulations, combined with the imbalance of power in the workplace makes effective worker participation in Joint Health and Safety Committees even more important. The necessity of convincing management to act voluntarily, especially where substantial cost may be involved, calls for careful preparation, strong presentations and effective strategy. All of this must be reinforced by the solid backing of the membership, and this comes from ongoing two-way communication.

When the Joint Health & Safety Committee is unable to settle a dispute between its union and management sides, the worker side can call in a health and safety inspector. These inspectors are charged with the duties of ensuring the act is upheld. But recently, there has been a change in many jurisdictions where by inspectors have been discouraged by their own management, from writing orders in all but the most blatant and dangerous violations of the law. They have been encouraged to write recommendations, and provided with tools such as 'agreements of voluntary compliance' (AVC's in the federal jurisdiction) or 'compliance undertakings' (in Saskatchewan). By their nature, these processes do not force employers to correct their legal non-compliances the same way an order would.

When the Joint Health & Safety Committee is unable to settle a dispute between its union and management sides, the worker side can call in a health and safety inspector.

Thus, the inspector is most successful as a dispute settler when there are obvious and dangerous violations of the Act and Regulations at the bottom of the dispute. Inspectors expect the parties to work out the complicated, or less defined interpretations of the law among themselves. As a result, there is little progress in defining the many "grey areas" in the Act and Regulations. For example, given the sharp differences in the interests of workers end management, it is not surprising that terms such as "has reasonable cause" are difficult to define through voluntary discussions.

As committee members, it is essential that every step taken, every complaint filed, and every response from the employer is fully documented. In doing so, committee members are ensuring that they can demonstrate that they have attempted to fix the problems using the IRS. Where resolution between the workplace parties can not be reached, and an inspector is called, this documentation will be valuable in convincing an inspector to take steps to ensure compliance with the Act and Regulations.

Health and Safety Plan

Most jurisdictions require that employers develop a written health and safety plan or system² that may include

- A health and safety policy and or program
- Defined responsibilities for workers, supervisors and management.
- Safe work procedures.
- Process for reporting hazards and incidents.
- Defined roles for the health and safety committee.
- Training for new hires (orientation) and ongoing training.

² The actual name and requirements of policies/plans/systems etc. vary greatly between jurisdictions. Users of this guide should ensure they have reviewed their Act and Regulations for proper terms and requirements.

- Emergency procedures including first aid.

The Health and safety committee kit contains examples of many of the items listed including a sample Hazard Prevention Program.

Due Diligence

The legislation can't cover everything that can happen on the job. Sometimes employer must take measures to protect workers and service providers that are not stated specifically in the legislation. Due diligence means that a person has a legal duty to take every *reasonable* precaution in the circumstances to avoid both harm and an offence against the law. That all should be done before anything happens – it can't be considered due diligence if health and safety processes are implemented after an incident.

What an employer must do to provide a healthy and safe workplace depends on the circumstances, including the types of hazards and severity of associated exposures in relation for the opportunities for control. Though not explicitly stated, health and safety law requires employers to think, be engaged, creative, plan and consider the hazards faced by workers and the available exposure controls and do everything *reasonably practicable* to prevent incidents.

CUPE's H&S Committee resource kit provides a Due Diligence Checklist that can be used to quickly assess a workplace to ensure that the employer is meeting their obligations.

Due diligence describes a very high standard to take reasonable care. In the context of the Act and Regulations, this due diligence standard is reflected in the following principles:

General Duties. The Act imposes different duties on every party in the workplace to take reasonable care of their health and safety and that of others to the degree that they have the authority and ability to do so. This general duty is in addition to all the specific requirements, and goes far beyond merely complying with the law.

Regulatory Compliance. The obligations of every workplace party (owner, director, supervisor or worker) are described in the occupational health and safety legislation and regulations that apply to the work and the workplace. It is each party's responsibility to follow those obligations. If they don't each person that doesn't follow the law can be held accountable for their (in) actions. It must be remembered that ignorance of the law is not a defence. Not knowing what the law or regulations demand isn't a good defense for employers, directors or owners. Because they own and direct the work, it's their job to make sure that they are informed in what needs to be done to do it safely.

Reasonably Practicable. The concept of reasonable is one that is frequently debated at health and safety committees. For something to be reasonable, one must consider whether an occurrence was foreseeable, preventable and the degree of potential harm. The greater the likelihood of exposure and harm to health from exposure to a hazard, the greater the health and

safety measures required. To not take the most protective corrective measure, employers must show that they took every possible precaution, unless they can show that the benefits of taking the precaution are greatly exceeded by the cost in time, effort and money. This is known as an undue hardship, and is up to the employer to prove. It is the position of CUPE that if a job can't be done safely, it shouldn't be done at all.

Proactive. Due diligence requires a proactive and systematic approach to health and safety. This can be done in a workplace by establishing and implementing a health and safety plan that:

- identifies hazards
- assesses the likelihood of exposure and severity of harm associated with exposure to those hazards
- implements measures to eliminate or minimise the likelihood to exposure or severity
- monitors each part of the plan to ensure that it is adequate and effective

Employers must develop and implement this plan in consultation with their workers. Workers must follow instructions and safety precautions that are established and put in place to the extent that they have the knowledge, authority, and ability to do so.

The Criminal Code of Canada

Unlike the health and safety legislation discussed previously, the Criminal Code of Canada applies to everyone, but had not previously been applied in the workplace. That changed in 2004 when the Bill C-45 (AKA the Westray Bill) was adopted and became law. This Bill amended the Criminal Code of Canada, adding section 217.1, to hold organizations, corporation and their representatives criminally responsible if, through negligence, they failed to keep their health and safety obligations and imposed some serious penalties if those failures or violations caused death or injuries to a worker.

The Westray Bill is so named because of a preventable tragedy that occurred at the Westray coal mine in Nova Scotia in 1992. 26 miners were killed when methane gas, a gas that catches fire easily, exploded. The company that ran the Westray mine had received a lot of safety complaints and concerns from workers, union officials and government inspectors. The company ignored them. After the explosion, despite a lot of evidence of negligence, there were no convictions against the company or its managers. Because of this, a Royal Commission of Inquiry was struck in 1998 that investigated the disaster and made 74 recommendations. The findings of the commission eventually led to the creation and passing of Bill C-45 on March 31st, 2004. Bill C-45 amended the Criminal Code of Canada – since its passing, failing to ensure worker safety can mean criminal negligence charges for organizations, the management team and/or the people who have charge of the work. That means that if a person knew there was a safety problem and then that person did nothing to fix it and something happens, that person would be held responsible (liable) and could be charged under the criminal code and could face serious jail time.

It is important to note that the rules that determine liability (legal responsibility) are different for the Criminal Code of Canada and provincial or federal health and safety legislation. Under the Criminal Code of Canada, being able to direct a worker (such as a lead hand) means that lead hand must take reasonable steps to make sure that the work is done safely.

Workers Compensation

Many (but far from all) workers are covered by a no-fault insurance system frequently referred to as Workers Compensation. The details of the various workers' compensation schemes are beyond the scope of this guide and kit. For more information about Workers Compensation, contact a CUPE National Service Representative.

To dispel some myths about compensation, a handout about workers compensation has been included as part of the kit.

Part II: Health and Safety Committees

Health and safety committees can provide a link between the workers who do the work and the people who direct it. Committees provide a forum where health and safety issues can be discussed by both, employer and worker members with the goal of resolving the issue. In well functioning committees, health and safety committee members are actively identifying hazards and finding adequate ways to either remove them or control the likelihood and harm to health of exposure where hazards can not be removed.

Committees that are supported and allowed to function show positive communication that will ultimately reduce incidents, benefits productivity and contributes to the sense of team work in the workplace.

With an effective health and safety committee:

- Accidents are reduced.
- Awareness of health and safety is improved.
- A broad base of expertise and experience is developed and available for solving problems.
- Co-operation is encouraged through better communication.
- All workers have a way to express concerns and have them addressed.

To be an effective functioning committee the following aspects should be considered:

- Committee Makeup
- Committee Member Selection
- By-Laws
- Terms of Reference
- Meeting Schedule and Agenda
- Training

The committee is not the IRS—it is the system's 'check and balance'.

Committee Makeup

Most of our CUPE workplaces have a health and safety committee structure that's established to address the health and safety concerns of workers. This committee is made up of worker and management representatives (the worker representative cannot have managerial functions). There can never be more management than workers; at the very least there must be equal representation of worker and management representatives, but more worker representatives are allowed.

Committee Member Selection

The worker representatives are appointed or elected by the union, NOT by management. It's important that the union does not let management influence the selection of its workers' representatives. It's also important to note that management cannot compel or even suggest that a worker representative resign or step down from the committee – even if the attempt to do so is motivated by a sincere desire to promote safety rather than to dominate the health and safety committee. It's a fundamental right for workers to select who they want as their representative without any participation or influence by the employer.

By-Laws

CUPE locals are encouraged to prescribe how representatives to the health and safety committee will be selected, and how long the term will be and how to fill vacancies. The primary methods are election or appointment, and both have pros and cons.

Election. Many locals choose to elect the members of the health and safety committee. This is usually done at the annual general meeting.

A detailed document outlining legal requirements and sample language for a TOR items can be found in the accompanying kit.

Appointment. Appointments of the members of the health and safety committee are usually done by the president of the local, or by a sub committee of the executive.

Health and safety executive member. Some CUPE Locals choose to have a health and safety position on their executive to ensure that health and safety issues are always brought to the executive level of the local.

Terms of Reference

Terms of reference (TOR) also known as "Rules of Procedure" for the health and safety committee are an essential component of a functional health and safety committee. While many jurisdictions have regulations that define how some aspects of the committee shall function, there is much that is not covered. Terms of Reference is like a "mini collective agreement" that spells out procedural aspects such as:

- Mission statement
- Role of the Committee Members, Chairpersons and Secretary
- Structure of the committee
- Meetings specifics such as standing agenda items and guests and quorum
- Training for members
- How committee functions shall be performed, such as inspections and investigations

Nothing in the committees TOR should violate any of the jurisdictions health and safety legislation and in many cases, they can't be enforced by an Inspector.

Meeting Schedule and Agenda

Health and Safety Committees are co-chaired; one chair from the management side and one chair from the worker side and they share their responsibilities. Some jurisdictions go as far as to specify that co-chairs should take turns chairing the health and safety committee meetings.

To fulfill its required functions, Health and Safety Committees must meet per the requirements set out in the health and safety legislation. In many proactive workplaces committed to health and safety, the Health and Safety Committees meet more often than the legislated minimum. A schedule for the meetings is established by the committee members to ensure that the health and safety concerns in the workplace are being addressed and there should be enough scheduled time to cover all the agenda items. During these meetings, committee members should be doing at least the following:

- Reviewing and approving minutes from previous health and safety committee meetings;
- Reviewing inspection reports and the items identified (some of which may already be corrected);
- Reviewing temporary measures put in place to protect workers until hazards can be permanently fixed;
- Getting information on outstanding or recurring inspection items which might benefit from a health and safety committee recommendation;
- Reviewing incident report forms; accidents, near misses, injury reports etc.;
- Discussing/reviewing policies and procedures;
- Discussing visits from the Ministry or Department of Labour, it's equivalent;
- Discussing the outcomes of any testing that was done;
- Reviewing maintenance records (like HVAC systems, biological safety cabinets etc.);
- Discussing emerging problems or issues.

If there was not enough time scheduled to get through the meeting's agenda items, then the meeting time is not adequate to meet the needs of the committee. Before the meeting adjourns, the committee should schedule another meeting to complete the agenda as soon as possible. It's not a good practice to have undiscussed agenda items be deferred to the next meeting because it could be letting problems get worse. For example, if reports aren't reviewed and

recommendations made because of a lack of time, and a committee only meets every 3 months, serious hazards or concerns could be easily left unaddressed in the workplace for up to 9 months. This is counter to the goal of health and safety committees whose role it is to expeditiously dispose of health and safety concerns. Also, this is not a good practice and would not let the employer use a 'due diligence' defense in the case of an incident involving the issue that has been raised.

Training

Most workers do not get hired knowing how to perform all the duties of a health and safety committee member. It is ok to recognize when there is a training need. In most jurisdictions, it is a requirement of the employer to provide committee members with training, or at least provide them with the time and resources to get the training they need to be effective health and safety committee members.

Part III: Tasks of Health and Safety Committees

Health and safety hazards, concerns or problems in the workplace are addressed by the Health and Safety Committees. The Health and Safety Committee members perform the following functions, each of which will be reviewed separately later in this document;

- Identify potential hazards, including performing inspections,
- Evaluate these potential hazards,
- Identify and raise the health and safety concerns of workers,
- Investigate injuries and illnesses caused by the workplace,
- Meet regularly to discuss occupational health and safety concerns,
- Ensure the maintenance of records of meetings and related activities,
- Help develop and promote health and safety training,
- Investigate refusals to work,
- Receive and participate in the distributing of health and safety related information,
- Recommend corrective action,
- Follow up on implemented recommendations.

Providing Guidance for other Members

Committee members and representatives, are frequently asked by other members about what to do with their health and safety issues. CUPE's H&S Committee kit provides a handout on the basic steps to start to deal with health and safety issues in the workplace.

In all jurisdictions, there is a process that should be followed by any worker with a health and safety issue that usually contains the following steps which may help them resolve that issue.

1. Raise the issue with your supervisor.
2. If not resolved, involve your CUPE Local and the health and safety representative.
3. Write to the health and safety committee and have the item added to the committee meeting agenda.
4. Have the Committee recommend a course of action to the employer in writing.
5. Follow-up! Just like in grievances, timelines are important.
6. Call the CUPE National Representatives, who will assist you.

Remember: Keep notes of all meetings and letters that discuss the raised issue. Make sure to **KEEP DOCUMENTING EVERYTHING.**

Agenda and Meeting Preparation

The agenda keeps the meeting organized and ensures that time is spent on discussions that are relevant to the committee's work. Agenda items should be submitted ahead of time so that all members can come to the meeting prepared. Unresolved concerns from previous meetings should automatically be placed on the agenda and a good practice is to have a way to fix them by the end of the meeting. The committee should decide on a practice about timing for submitting topics, and when the draft agenda will be submitted. This should not prevent last minute or emergency items from being added to the agenda, but will help ensure that members will be prepared to discuss most items. The meeting announcement, the agenda and copies of the last minutes should be prepared and circulated in advance a few days before the meeting so members can prepare.

It is good practice to include several items that are discussed at every meeting. These are known as standing items and may include:

1. Date, time and place of meeting.
2. Review or minutes of last meeting, and approval if they have not been previously circulated.
3. Review of unfinished business.
4. Reports (new hazards incidents, results of tests or other investigations)
5. New business.
6. Any special sessions or training planned.

Minutes

Keeping an accurate recording of what took place at a meeting is one of the most important functions of a committee. The committee meeting minutes are a legal document that show what the committee has been working on, and can demonstrate how well an organization is meeting the expectations of the internal responsibility system. If the committee can not reach a consensus on how to deal with a hazard and an inspector is called in, the inspector will often

ask to see the minutes of the committee meetings. Most jurisdictions require that minutes be kept readily available for when requested by an inspector.

‘Accurate’ means both factual *and sufficiently* detailed.

Minutes: Content

The main purpose of the minutes of the health and safety committee meetings are to keep track of safety problems and to state what recommendations have been made. Minutes also serve to promote safety to all workers and serve as a permanent record of health and safety committee activities. Items generally included are:

- Time and date of meeting
- Who attended
- Status of existing recommendations
- Changes made or that are coming to the workplace
- Items discussed (hazard reports, problems, statistics, education, summary of the discussion, key concerns, ideas generated, options considered and decisions made)
- Recommendations (specifying action by whom, by when)
- Reasons for recommendations (and any counter arguments voiced)
- Date, time and place of next meeting
- Secretary’s name
- Sign off by meeting co-chairs with date

An example of a sample tracking minutes’ template has been provided in CUPE’s H&S Committee Resource Kit.

The minutes should be brief, but they must provide enough details to capture the points of the discussion and highlight all recommendations and decisions. Actions that have been assigned to committee members should be recorded to confirm who has been assigned the task, and the expected date of completion. Many organizations prefer to use the committee member’s title when assigned tasks are agreed upon.

Minutes: Recording Practices

Some ideas on how to ensure minutes are accurately captured are:

- Have a template recording form for the secretary to make notes during the meeting, that uses the agenda as a guide and write the minutes immediately after, while the proceedings are fresh in his/her memory.
- To reduce the chance of error, some committees use the practice of entering information on a form, item by item, as the meeting progresses. The most effective way to achieve committee discipline is to enter every item in the minutes as it arises and have the

secretary read out what is being captured. It is also useful for the minutes to be projected so that everyone can see the text as well. This also has the added benefit of ensuring that all committee members recognize what is being discussed and agreed-to in the same way.

- Assigning a different number to every concern saves time and prevents confusion. For example, if six concerns are discussed at the meeting, each will be assigned a number (for example YEAR-01) and new business at the next meeting should begin with number seven (i.e. YEAR-07).
- Because minutes are documents that describe legal obligations, larger organizations with access to professional secretarial services will often provide resources to document the meeting. This allows the committee to then produce a reduced 'summary' set of minutes after the meeting for public distribution.

Minutes: Retention

Jurisdictional requirements for the retention of minutes vary, with most requiring an employer to keep minutes for at least two years. However, CUPE recommends that locals keep minutes for as far back as possible. These minutes can be useful for historical reasons (record of past injuries, past controls selection etc.)

Minutes: Approval

Most jurisdictions require that both co-chairs sign a copy of the minutes before they are posted to indicate that they are accurate. As mentioned previously, minutes are a legal document. As such, it is important that the worker co-chair does not sign off on minutes that are not accurate. Accuracy refers not only to the correct information being contained in the document. CUPE argues that for minutes to be accurate, they must contain enough detail that other workers can truly understand what happened at the meeting and how the employer is controlling identified hazards. Before signing off, it is a good practice to circulate the draft to committee members so that each can submit any corrections. Once the changes are submitted and approved by the members, the co-chairs can then sign off.

Minutes: Posting

After being approved and signed by the co-chairs, committee minutes should be posted in the workplace. This should take place within one week of the meeting. To ensure workers can see how health and safety process is progressing, the minutes of *at least* two consecutive meetings should remain posted. Most workplaces have a designated board or space for health and safety information. Some organizations also send copies of the minutes to all workers.

Inspections

One way to identify situations that can harm a worker is by inspection. A worker member of the health and safety committee must carry out inspections of the workplaces in accordance with relevant jurisdictional requirements, but CUPE recommends that inspections take place every month.

A check list can be a useful tool to make sure the inspection is completed properly. It is important to remember that checklists can also limit the inspection. Everything can't be put on a checklist. What that means is that some people could focus on what is on the checklist and forget to look for other, more unusual hazards. Others might get so used to filling out the checklist for a workplace that they start 'pencil whipping', making assumptions about the conditions of the workplace and simply quickly mark off all the boxes on the checklist. This can be avoided by changing who does inspections, inspecting different areas, or even just changing the format of the checklist form.

Several sample inspection checklists and additional information on leading practices for inspections have been provided on the additional materials in the accompanying CUPE H&S Committee Resource Kit.

There are committees where several unions are represented on the worker side. When that happens, it's important to know that it's one worker representative that does the inspection, not one from each union. However, committee members can rotate their inspection duties during the year or if the workplace is large, it can be split up among the worker members of the committee.

Notices

A hazard in the workplace that causes a fatality or a critical injury to a worker or a person who is not a worker must be reported to the regulators, the health and safety committee, and the trade unions in the workplace. Violence is a workplace hazard, and incidences of violence must also be reported to the Health and Safety Committee for their assessment or review and to authorities where necessary.

Investigations

Investigations are processes that are used to uncover potential workplace hazards which need to be corrected. They are performed most commonly after an incident has left a worker injured or worse, but recently, there has been a positive and progressive move towards investigations even when no one was injured. These area commonly referred to a near misses.

All incident investigations should focus on prevention as the major objective. Goals of the investigation process should not stop at the identification of the factors that lead to the incident, but also how prevention measures can be implemented for all identified hazards at the

workplace. Investigations should not be about blaming people, but rather to discover the causal and contributing factors so that they can be corrected.

Developing Control Recommendations

Hazard identification and assessment must lead to effective controls being developed and put in place. To control a hazard means to either remove the hazard or reduce the exposure to an acceptably safe level. There are some hazards that cannot be removed from the workplace. When that happens, the committee should determine how workers could come into contact with the hazard (exposure) and prevent that from occurring. The health and safety committee members are in ideal situation to propose control measures as they bring a mixture of knowledge about how the work is done in the entire workplace to the table.

To be effective, a control must meet four criteria:

1. It must adequately prevent the hazard from causing harm.
2. It must protect everyone who could be exposed to and harmed by the hazard.
3. It must not create new hazards, or production and quality control problems. (If it does, workers may be tempted to subvert it).
4. It must not create a hazard to the environment or public outside of the workplace.

When considering the types of controls committees should consider two principles proximity to the hazard and the hierarchy of controls.

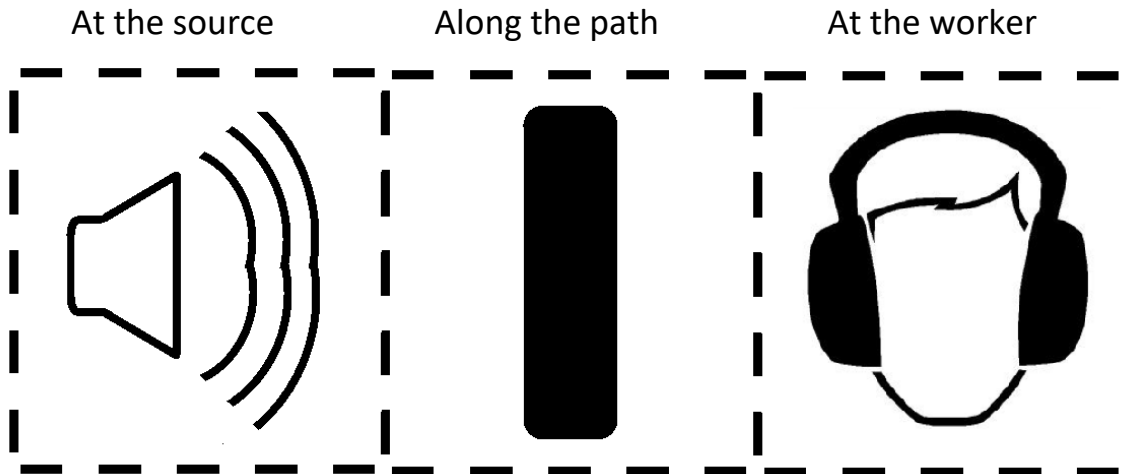
In general, controlling a hazard at the source is more effective than at a distance, and the types of controls should start with potential removal or strong, passive controls that workers do not have to take steps to utilize.

Hierarchy of control

1. The elimination or substitution means to simply remove the hazard
2. Engineering control means to reduce the exposure to the hazard by modifying the workplace's physical structure, equipment, processes.
3. Administrative controls limit workers' exposures by controlling the way the work is done (rules and policies)
4. Personal protective equipment is the equipment worn by individuals to reduce their exposure to the hazard

Remember, if a hazard related to work cannot be eliminated, workers must be told:

- About the hazard
- The results of being exposed to the hazards
- The control measures being used to reduce the likelihood or severity of exposures



Control Consideration Steps

At the Source

Committees should first consider if hazards can be controlled at their source.

Elimination. Committee should examine the workplace, processes and functions to determine if the hazard even needs to be in the workplace. Removing a hazardous job, tool, process, machine or substance is often the best way to protect workers; there can be no injury from a hazard if it is gone. For example, selecting an electric forklift will remove the concern of diesel fumes from a standard forklift.

Substitution. If elimination is not practical, try replacing hazardous substances with something less dangerous. For example, cleaning chemicals with strong perfumes can be replaced unscented version to prevent people with scent sensitivities from suffering.

Isolation. Isolating, containing or enclosing the hazard is a type of engineering control for preventing exposure to a hazard. Working with dangerous chemicals often takes place in isolated well-ventilated cabinets, while loud machines can be put in soundproof enclosures to reduce the amount of noise that workers have to hear.

Redesign. Another type of engineering control can be to redesign the layout of the workplace. Hazards created by poor lighting, ventilation, temperatures can often be fixed by changing the workplace. One example is the use of raised service counters with partitions to reduce the likelihood of violence from patrons.

Along the Path

If the above-mentioned controls are not available, the next type of controls to consider are controls that are placed along the path from the hazard to the worker. It is still preferred that controls be implemented as close to the source of the hazard as possible.

Barriers. Employers can engineer solutions that prevents access of the workers to hazards. Most equipment with moving parts have guards, and equipment with large pinch points may have physical barriers or light curtains that prevent the machine from running if activity is detected close to the machine.

Distance Controls or Machine Enabling Devices. Controls that take two hands and are operated across the room from the machine prevent the accidental engagement of a machine while parts are being changed, or materials loaded. These types of machine controls are frequently used in manufacturing operations.

Absorption. Filters and baffles can absorb and remove different types of hazards from the workplace. Baffles and local exhaust ventilation, especially when equipped with specific types of filters, can remove toxic substances in the air where they are produced.

Dilution – Some employers attempt to use dilution to control hazards. Dilution is what happens when a substance is mixed with another substance to make it weaker. For example, adding water to dilute concentrated orange juice to dilute the taste so that it's more pleasant to drink. Some airborne hazards (such as vapours or fumes) can be diluted to the point where they do not pose a hazard. For example, carbon dioxide can be maintained at a safe level by continually adding fresh air into a room and venting out the air already in the room. It must be noted that dilution is not an appropriate control for chemicals that may cause harm in low quantities. Chemicals that are carcinogenic or extremely toxic should not be controlled by dilution methods.

At the worker

If controls at the source and along the path are not possible, then controls at the worker are a last resort. One of the reasons that this type of control is not as effective as the other levels of control is that it only protects individuals that have the control measure and can use it properly, leaving other people not protected.

Administrative controls. In short, administrative controls are rules. They may include new policies, work procedures or practices. For example, certain production activities can be delayed to the night shift when fewer workers are present. Work can be scheduled to ensure that no workers are alone. When administrative controls are being used, it is essential that supervision is in place to ensure compliance and that refresher training is provided periodically to all levels of the organization that perform or oversee the work.

Personal protective equipment (PPE). PPE are used when no other option for preventing exposure is available. PPE has the disadvantage of doing nothing to control the actual hazard, it just places a barrier to the hazard on the worker. If the PPE fails, isn't the right type, doesn't fit properly or is not used properly, the worker ends up being exposed. Awkward or bulky PPE may prevent a worker from working safely by getting caught in things or preventing a proper grip. In some cases, PPE can even create hazards, such as heat stress while wearing protective clothing. Training must be provided to ensure workers understand how to use, wear and where applicable,

maintain the equipment. Common PPE includes steel toe boots, safety goggles and earplugs. Where not clearly spelled out in legislation, locals should negotiate for PPE to be supplied by or paid for by the employer.

Other Controls for Consideration

Emergency planning. While the above controls can be effective for the 'day to day' hazards, the committee should also consider other hazards that will be present during various emergency situations such as fires, chemical spills or workplace violence. Written plans, including what workers should do for reporting and summoning assistance should be in place to handle these events. Workers should be trained to follow these procedures and use appropriate equipment. Refresher training should be provided regularly.

Housekeeping, repair and maintenance plans. An employer that ensures that work areas are kept neat and organized will not only increase safety, but should also increase efficiency. Housekeeping includes cleaning, waste disposal and spill cleanup. Tools, equipment and machinery are less likely to cause injury if they are kept clean and well maintained.

Hygiene practices and proper facilities. Proper hygiene practices can reduce the likelihood of being exposed to hazardous substances. As well, employers should ensure that workers have a separate clean facility for eating where there is no contact with items that were used while working. Examples of good hygiene and facilities practices include having separate lockers to avoid contamination from work clothing to street clothing even to the extent of having the two areas divided by a shower facility. Eating areas must be segregated from work areas with hazardous materials that could be ingested with the food. Additionally, eating, drinking and smoking should be forbidden in toxic work areas. Where applicable, workers may be required to shower and change clothes at the end of the shift.

Selecting controls

Committees should give careful considerations when selecting controls to recommend and ensure that they are controlling the underlying cause of the hazard. It is far safer, and even potentially cheaper in the long run to replace a hazardous product in the workplace rather than supplying and training workers on the proper use of respirators.

Note that one type of hazard control may not be enough to completely remove the hazard, so multiple categories of controls (ex. administrative and PPE) will need to be considered.

If the committee discovers that the practices of their employer do not meet the requirements of the jurisdictional health and safety act or related legislation, these legislative requirements should be noted in the recommendation, as the employer must comply with the law and regulations, and changes should be made as soon as possible.

Temporary Controls

Sometimes implementing a permanent control for a hazard will take time. That should not mean that workers are continually exposed to the hazard until the control can finally be implemented. The committee should also consider temporary controls to recommend. For example, if a piece of machinery has been identified as being too loud, and the employer agrees to replace the machine with a new version that produces far less noise, but it will take 3 weeks for the new machine to arrive, the workers should be provided with sufficient ear protection while waiting for the new machine.

Documenting Recommendations

Formal written recommendations are the way the health and safety committees propose changes to the senior management to control hazards that affect the health and safety of workers. Recommendations may include changes to policies, procedures, processes, equipment, materials or any other improvement that can have a positive effect on worker health and safety. The written recommendation describes the hazard that needs to be controlled and how the committee proposes that it be fixed and usually goes to the senior manager that oversees or has been assigned responsibility for health and safety.

Different jurisdictions have different requirements when it comes to written recommendations and the required responses. If the employer accepts the recommendation, they should respond in writing providing the committee with the following information:

- The proposed recommendation, and how it was accepted, including any modifications
- What is accepted
- The specific task or goal and time frame for completion
- A timescale
- The management or other person assigned to complete key activities

If approved, the committee should note the expected date of completion so that adequate follow-up can take place (re-inspection, ensure compliance etc.).

If the recommendation is not approved, the employer should also include the reasons for rejecting the committee recommendation in the response (see below).

The accompanying kit provides additional resources including specific legal requirements for responses to recommendations and sample recommendations.

Monitor and evaluation controls

Once new control measures have been put in place, the committee should review the new work setup to ensure that they are functioning as planned and have not created new hazards. The committee should ask:

- Have the controls solved the problem?
- Can the worker still be exposed to the original hazard, and can it cause harm?
- Have any new hazards been created?
- Are new hazards appropriately controlled?
- Do monitoring processes determine when/where the control is/is not working?
- Have workers been adequately informed about the situation?
- Have orientation and training plans been modified to deal with the new situation?
- Are any other measures required?

Additionally, the committee should remember that if a new work process or piece of equipment has been brought into the workplace, then both training and emergency plans must be re-evaluated to ensure that the changes have been incorporated into the plans.

Disagreement or Recommendation Rejection

There will be times where the committee's members are not able to reach consensus on what recommendations should be done (or if anything should be done at all). Additionally, even when the committee agrees, there are times when the employer will reject a committee's recommendation. Both situations can lead to members of the committee contacting the jurisdiction's health and safety regulator.

When the committee can not reach agreement that a hazard is serious enough to warrant a change, ensure that everything is documented in the minutes.

Non-Consensus. If after a reasonable amount of discussion, the committee can not reach agreement that a hazard is serious enough to warrant a change, or they can not agree the members of the committee must ensure that everything is documented in the minutes. The minutes should note the concerns and recommendations of the worker members, and the reasons provided by the employer members about why

they will not proceed with a recommendation. In some jurisdiction, there is a process within the legislation when there is no committee consensus. It may then be appropriate to inform the employer members of the committee that the worker members of the committee will be contacting the health and safety regulator (inspector etc.) to ask them to look into the matter. This should also be noted in the minutes. Before a committee member makes the call to the regulator, they should inform their local executive so that they are not caught off guard if they are asked about the situation later. CUPE does not recommend that committees 'vote' on recommendations to stop discussions. The health and safety system is not a voting system. Every member of the committee must be heard, and though the concerns of a minority of members may not be understood, they must be noted, responded to, and the process for their concerns must be followed through the full health and safety system.

Rejection of Recommendations. The legislated committee structure and the IRS does not provide mechanism to force the employer to make a change. If the employer requires more information

on why the committee is making particular recommendations, the committee members should not perceive this as a rejection, but rather as an opportunity to educate others in the organization on why the committee is concerned. Additional information should be provided as soon as possible to make it clear why a change needs to take place.

The employer may also have suggested alternate recommendations, or accept recommendations with modifications, and these should be considered by the committee, and responded to in writing as to whether they agree with the modified recommendation, or if their original recommendation should stand.

Audit: an official inspection of an organization's process to a specified standard

If an employer rejects a committee recommendation, they should provide the committee with a written explanation, regardless of the specific legislative requirements. To properly fulfil due diligence requirements, the employer must be able to show that they considered the hazard presented by the committee's recommendations. From a health and safety perspective, to reject a recommendation outright without modification, the employer would have to show that there is no hazard to be controlled to avoid potential repercussions. When informing the committee of the rejection, the employer should include why they are rejecting the recommendation. Common reasons for employers rejecting a recommendation follow:

- Lack of organizational resources (money, staff, time etc.)
- Employer does not believe the issue is a hazard that will cause injury
- They have an alternate suggestion that they believe will make the workplace safe
- Other changes are already underway that will correct the problem
- Employer thinks the recommendation is unreasonable or impossible
- There is already a policy and procedure in place to address the hazard

If an existing policy, procedure or practice was already in place and effective, there would be no hazard present for the committee to discuss. So, if an employer's response is that there is a policy, procedure or practice in place that the committee may not have been aware of, it would be a good practice to recommend that the policy, procedure or practice be audited to make sure that it is working as it was supposed to. If the committee is not satisfied with the response received from the employer, most jurisdictions provide them with the option of contacting the government health and safety regulator to file a complaint.

Health and Safety Assessment/Evaluation or Audit

One of the most overlooked roles of the committee is to ensure that the employer's health and safety system is working the way it should. This is commonly referred to as auditing. However, the term 'Audit' can be seen as being a negative process, so CUPE is recommending that the committee use the term 'system or program assessment'.

Essentially, a committee can assess how good any organization's health and safety plan, policy, program or procedure is at protecting workers. That role would be considered an internal

auditor. It is a good idea that an assessment of each plan, policy, program or procedure is performed annually.

Conclusion

This guide provides many of the basics for the functioning of effective health and safety committees, but does not cover everything. Many additional details have been provided in CUPE's Health and Safety Committee Resource Kit. Additionally, if you have any questions or concerns about the function of your health and safety committee you are encouraged to contact your local executive, your local's CUPE National Servicing Representative or Health and Safety Specialist.

Additional Health and Safety Resources

CUPE National Health and Safety Representatives

For a full list of health and safety specialist and their regions, check out this link

<http://cupe.ca/what-do-if-you-have-health-and-safety-problem>

Listed here are a few free online services that can provide information on specific hazards and additional resources for the functioning of health and safety committees.

CUPE National Health and Safety: <http://cupe.ca/health-and-safety>

Canadian Center for Occupation Health and Safety: <http://www.ccohs.ca/>

Health Canada - Occupational Health and Safety: <http://www.hc-sc.gc.ca/ewh-semt/occup-travail/index-eng.php>

This is not an exhaustive list, and there is much more information available online. When looking for information, be wary. Employers often attempt to blame worker or use behaviour based safety in the workplace. CUPE does not agree with these approaches. REMEMBER: Employers have the ultimate responsibility for safety in the workplace. If unsure about a procedure, talk to your CUPE Local Executive or the CUPE Local safety person in your workplace to get support and information that you can trust.