

OSHA's Voluntary Protection Program

In 1982, OSHA established its "Voluntary Protection Program" to recognize and reward employers with excellent safety and health programs. The reward was freedom from most OSHA inspections. In general, OSHA will only inspect a VPP site where the law requires it, for example where they receive a complaint or after a fatal accident. Safety and health programs that qualified for VPP were expected to have worker involvement, and the support of the union where there was one.

VPP was always controversial in the labor movement. VPP workplaces tout low rates of job injuries and illnesses, many are non-union, and often have policies and practices that discourage workers from reporting injuries. Some unions wanted nothing to do with VPP. Others were more willing to accept the program. In recent years, OSHA has heavily promoted the program, in some cases creating corporate-wide programs, in other cases accepting employers with questionable safety programs.

Some employers see VPP as an end in itself, regardless of the actual health and safety conditions in the workplace. In some cases, the employer has made promises to gain the union's support, only to break them when they are accepted into VPP. Many companies have attempted to enter into the program with no real intention of working with the union or making needed improvements in health and safety. Some unions believe that entering into the VPP process has benefited them by increasing their leverage to gain improvements. Unionized employers need the union's support to enter VPP. This can give the union some power to bargain for concrete improvements to the safety program.

If your local union is asked by management to support a VPP application, we urge you to **contact the USW Health, Safety and Environment immediately at (412) 562-2581 or safety@usw.org**. We can help you evaluate their application and the existing safety program. We can help you negotiate for improvements.

Here are some of the principles we use in evaluating proposed VPP programs:

1. The employer must have an excellent safety and health program with full union participation. The program must respect the labor agreement and the rights of the union and

individual workers. *The basis of the program must be finding and eliminating or reducing workplace hazards, not employee "behavior."* The workplace program must also be based on an understanding that OSHA standards are minimum requirements, and must address all hazards in the workplace, whether or not they are regulated by OSHA.

When workplace health and safety excellence is the goal, VPP may certainly result. However when VPP is the goal, improvement in workplace health and safety does not necessarily result, and conditions can even become worse.

2. At a minimum, the safety program must include the right to refuse unsafe work; a strong joint safety and health committee where the union, not the company, chooses its representatives; and, the right of union safety committee members to talk to employees, visit all parts of the plant, participate in incident investigations and workplace audits, and, meet apart from management, all on company time; effective safety and health training; the right of entry for safety and health representatives from the International Union; and, company-paid attendance at the USW's annual safety and health conference for one or more union members of the joint safety and health committee.

3. Since even a good program can be improved, the employer must agree to a negotiated improvement in their safety and health program. The improvement will, of course, vary from location to location. The improvement must be agreed to in a written agreement, which will remain in force even if OSHA does not ultimately grant VPP status.

4. Since VPP depends on accurate injury and illness reporting, *the employer must agree in writing to eliminate and not to institute any policy, practice or program which punishes or discourages the reporting of injuries, illnesses, symptoms, accidents or near misses.* This includes positive and negative incentive programs based on injury rates, automatic post-injury drug testing (i.e. testing without reasonable suspicion), and the use of discipline as a tool for safety management. Discipline must be reserved for cases of malicious, defiant or reckless disregard of reasonable and properly communicated safety rules.

Contact the USW HSE Dept with questions.