

Exhibit 1 -

Falsified training Records  
From Hero training

## Exhibit 2 -

### Employee Statements

- Did not receive this training on xx/xx/xxxx
- Have not received the complete Heat Stress and Recognition Training, to include the on-line portion of this training
- Statements are most effective if written in the carrier's own words.

## Exhibit 3

Employee Every thing reports showing  
Carriers not at work when training  
allegedly took place.

**Exhibit 4****ARTICLE 14 SAFETY AND HEALTH****14.1 Section 1. Responsibilities**

It is the responsibility of management to provide safe working conditions in all present and future installations and to develop a safe working force. The Union will cooperate with and assist management to live up to this responsibility. The Employer will meet with the Union on a semiannual basis and inform the Union of its automated systems development programs. The Employer also agrees to give appropriate consideration to human factors in the design and development of automated systems. Human factors and ergonomics of new automated systems are a proper subject for discussion at the National Joint Labor-Management Safety Committee.

**Responsibilities.** It is management's responsibility to provide safe working conditions; it is the union's responsibility to cooperate with and assist management in its efforts to fulfill this responsibility.

**14.2 Section 2. Cooperation**

The Employer and the Union insist on the observance of safe rules and safe procedures by employees and insist on correction of unsafe conditions. Mechanization, vehicles and vehicle equipment, and the work place must be maintained in a safe and sanitary condition, including adequate occupational health and environmental conditions. The Employer shall make available at each installation forms to be used by employees in reporting unsafe and unhealthful conditions. If an employee believes he/she is being required to work under unsafe conditions, such employee may:

- (a) notify such employee's supervisor who will immediately investigate the condition and take corrective action if necessary;
- (b) notify such employee's steward, if available, who may discuss the alleged unsafe condition with such employee's supervisor;
- (c) file a grievance at Formal Step A of the grievance procedure within fourteen (14) days of notifying such employee's supervisor if no corrective action is taken during the employee's tour; and/or
- (d) make a written report to the Union representative from the local Safety and Health Committee who may discuss the report with such employee's supervisor.

Upon written request of the employee involved in an accident, a copy of the PS Form 1769 (Accident Report) will be provided.

Any grievance which has as its subject a safety or health issue directly affecting an employee(s) which is subsequently properly appealed to arbitration in accordance with the provisions of Article 15 may be placed at the head of the appropriate arbitration docket at the request of the Union.

**Priority Handling of Safety Issues.** Article 14.2 provides a special priority for the handling of safety and health issues, providing for cooperative correction of unsafe conditions and enforcement of safety rules, and requiring special handling of individual safety issues as they arise.

**Safety Grievances Filed at Formal Step A.** Article 14.2.(c) provides that safety and health grievances may be filed directly at Formal Step A of the grievance procedure. However, if a health or safety grievance is filed at Informal Step A instead, it is not procedurally defective for that reason.

**Priority Arbitration Scheduling.** Any grievance which has as its subject a safety or health issue directly affecting an employee(s) which is subsequently properly appealed to arbitration may be placed at the head of the appropriate arbitration docket at the request of the union. The Postal Service will not refuse to schedule a case in accordance with Article 14.2 based solely upon the belief that no safety issue is present. However, placement of a case at the head of the arbitration docket does not preclude the Postal Service from arguing the existence of the alleged safety issue or that the case should not have been given priority (Prearbitration Settlement, F94N-4F-C-97024971, February 20, 2001, M-01433).

### 14.3

#### Section 3. Implementation

To assist in the positive implementation of the program:

A. There shall be established at the Employer's Headquarters level, a Joint Labor-Management Safety Committee. Representation on the Committee, to be specifically determined by the Employer and the Union, shall include one person from the Union and representatives from appropriate Departments in the Postal Service. Not later than 60 days following the effective date of this Collective Bargaining Agreement, designated representatives of the Union and Management will meet for the purpose of developing a comprehensive agenda which will include all aspects of the Employer's Safety Program. Subsequent to the development of this agenda priorities will be established and a tentative schedule will be developed to insure full discussion of all topics. Meetings may also be requested by either party for the specific purpose of discussing additional topics of interest within the scope of the Committee.

The responsibility of the Committee will be to evaluate and make recommendations on all aspects of the Employer's Safety Program, to include program adequacy, implementation at the local level, and studies being conducted for improving the work environment.

The Chair will be designated by the Employer. The Union may designate a coordinator who, in conjunction with the Chair, shall schedule the meetings, and recommended priorities on new agenda items. In addition, the coordinator may assist the Chair in conducting the activities of the Committee. The Employer shall furnish the Union information relating to injuries, illness and safety, including the morbidity and

mortality experience of employees. This report shall be in form of the reports furnished to OSHA on a quarterly basis.

The Headquarters level Committee will meet quarterly and the Employer and Union Representatives will exchange proposed agenda items two weeks before the scheduled meetings. If problems or items of significant, national nature arise between scheduled quarterly meetings either party may request a special meeting of the Committee. Either party will have the right to be accompanied to any Committee meeting by no more than two technical advisors.

B. There shall be established at the Employer's Area level, an Area Joint Labor-Management Safety Committee, which will be scheduled to meet quarterly. The Employer and Union Representatives will exchange proposed agenda items two weeks before the scheduled meetings. If problems or items of a significant, area nature arise between scheduled quarterly meetings, either party may request a special meeting of the Committee. Either party will have the right to be accompanied to any Committee meeting by no more than two technical advisors.

Representation on the Committee shall include one person from the Union and appropriate representatives from the Postal Service Area Office. The Chair will be designated by the Employer.

C. The Employer will make Health Service available for the treatment of job related injury or illness where it determines they are needed. The Health Service will be available from any of the following sources: U.S. Public Health Service; other government or public medical sources within the area; independent or private medical facilities or services that can be contracted for; or in the event funds, spaces and personnel are available for such purposes, they may be staffed at the installation. The Employer will promulgate appropriate regulations which comply with applicable regulations of the Office of Workers' Compensation Programs, including employee choice of health services.

D. The Employer will comply with Section 19 of the Williams-Steiger Occupational Safety and Health Act.

**OSHA.** The Postal Employees' Safety Enhancement Act of 1998 (PESEA) changed the status of the Postal Service as an employer under the Occupational Safety and Health Act (OSHA). Previously, the Postal Service, as a federal agency, was exempt from the private-sector provisions of the OSHA and was covered only by Section 19 of the Act and Executive Order 12196. When PESEA became effective, the Postal Service, unlike other federal agencies, became fully subject to the OSHA. This means that OSHA has jurisdiction over the Postal Service in matters relating to employee safety and health.

#### 14.4

##### **Section 4. Local Safety Committee**

At each postal installation having 50 or more employees, a Joint Labor-Management Safety and Health Committee will be established. In installations having fewer than 50 employees, installation heads are encouraged to establish similar committees when requested by the Union. Where no Safety and Health Committee exists, safety and

## Heat

## Exhibit 5

## Occupational Heat Exposure Menu

## Workers' Rights

## Standards

**Employer Responsibilities (OSHA Standard: General Duty Clause)**

Under the General Duty Clause, Section 5(a)(1) of the Occupational Safety and Health Act of 1970, employers are required to provide their employees with a place of employment that "is free from recognized hazards that are causing or likely to cause death or serious harm to employees." The courts have interpreted OSHA's general duty clause to mean that an employer has a legal obligation to provide a workplace free of conditions or activities that either the employer or industry recognizes as hazardous and that cause, or are likely to cause, death or serious physical harm to employees when there is a feasible method to abate the hazard. This includes heat-related hazards that are likely to cause death or serious bodily harm.

**NIOSH's Recommended Heat Standard**

The National Institute for Occupational Safety and Health (NIOSH) has published criteria for a recommended standard for occupational heat stress. The NIOSH document includes recommendations for employers about how to prevent heat-related illnesses.

Criteria for a Recommended Standard – Occupational Exposure to Heat and Hot Environments. U.S. Department of Health and Human Services (DHHS), National Institute for Occupational Safety and Health (NIOSH) Publication No. 2016-106, (February 2016).

**Heat Standards in Specific States**

Many U.S. states run their own OSHA-approved State Plans. Some states have adopted standards that cover hazards not addressed by federal OSHA standards. The following states have standards for heat exposure:

- **California.** California's Heat Illness Prevention Standard requires employers to provide training, water, shade, and planning. A temperature of 80°F triggers the requirements. See CalOSHA's website. See the full text of the California heat standard.
- **Minnesota.** The standard applies to indoor places of employment. See the full text of the regulation.
- **Washington.** See Washington State's Outdoor Heat Exposure Rule. See the full text of the regulation.

**Related Standards**

The Personal Protective Equipment (PPE) standard at 29 CFR 1910.132(d) requires every employer in general industry to conduct a hazard assessment to determine the appropriate PPE to be used to protect workers from the hazards identified in the assessment. See also 29 CFR 1915.152 (shipyard), 29 CFR 1917.95 (maritime) and both 29 CFR 1926.28 and 29 CFR 1926.95 (construction).

The Recordkeeping regulation ( 29 CFR 1904) requires employers to record certain work-related injuries and illnesses. In general, if a worker sustains a work-related injury or illness and receives days away from work, restricted work activity/job transfer, or medical treatment beyond first aid, the case will need to be recorded. However, if a worker needs "first aid," as defined in 29 CFR 1904.7(b)(5), the employer is not required to record the case. For example, if a worker requires intravenous fluids to treat a work-related illness, the case meets the general recording criteria. On the other hand, if a worker is only instructed to drink fluids for relief of heat stress, the case is not recordable. Refer to 29 CFR 1904.7(b)(5) for an explanation of the difference between medical treatment and first aid. Importantly, under 29 CFR 1904.39, employers are required to report to OSHA all work-related fatalities within eight hours, and all work-related inpatient hospitalizations within twenty-four hours. This reporting requirement would include occupational heat-related events such as heat illness, heat stroke, kidney injury, and rhabdomyolysis that result in death or inpatient hospitalization.

The Sanitation standards at 29 CFR 1910.141, 29 CFR 1915.88, 29 CFR 1917.127, 29 CFR 1918.95, 29 CFR 1926.51 and 29 CFR 1928.110 require employers to provide potable water.

The Medical Services and First Aid standards at 29 CFR 1910.151, 29 CFR 1915.87, 29 CFR 1917.26, 29 CFR 1918.97, and 29 CFR 1926.50, require that persons on-site be adequately trained to render first aid, in the absence of medical facilities within close proximity.

The Safety Training and Education standard for construction at 29 CFR 1926.21.

**Letters of Interpretation**

- The use of hard hats while working on roofs in hot weather. (August 1, 2014). Addresses concerns related to the use of hard hats and roofers' risk of heat-related illnesses from exposure to excessive heat.
- Whether the use of personal protective equipment is mandatory when working under heat stress conditions. (May 18, 2010). OSHA guidance for choosing appropriate PPE to protect workers from electrical hazards when heat stress is a factor.
- Clarification of preexisting injury/illness and recordkeeping. (October 6, 2009). Clarifies recordkeeping requirements for heat-related illnesses.
- Wearing short-sleeved shirts while performing a thermal spray operation with exposure to hexavalent chromium fumes. (January 25, 2007).
- Requirements for "nature breaks" and weather-related "comfort breaks" for U.S. Postal Service employee. (May 12, 2006)
- Acceptable methods to reduce heat stress hazards in the workplace. (October 17, 2001). Identifies feasible and acceptable methods that can be used to reduce heat stress in workplaces.

- Fire retardant PPE requirements and PPE hazard assessment. (March 27, 1998). Identifies heat and cold stress as factors considered under PPE hazard assessment.
- Interpretation of OSHA requirements for personal protective equipment to be used during marine oil spill emergency response operations. (September 11, 1995). 29 CFR 1910.132(d) mandates that the employer perform a hazard assessment of the workplace to determine if the use of PPE is necessary; select and mandate worker use of the necessary PPE; communicate selection of PPE decisions to workers; and select PPE that properly fits the employees.
- Landscaping employees working in extreme temperatures. (July 14, 1992).

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# Heat

## Occupational Heat Exposure Menu

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#### Overview: Working in Outdoor and Indoor Heat Environments

Millions of U.S. workers are exposed to heat in their workplaces. Although illness from exposure to heat is preventable, every year, thousands become sick from occupational heat exposure, and some cases are fatal. **Most outdoor fatalities, 50% to 70%, occur in the first few days of working in warm or hot environments because the body needs to build a tolerance to the heat gradually over time. The process of building tolerance is called heat acclimatization. Lack of acclimatization represents a major risk factor for fatal outcomes.**

Occupational risk factors for heat illness include heavy physical activity, warm or hot environmental conditions, lack of acclimatization, and wearing clothing that holds in body heat. (See also, personal risk factors, below.)

Hazardous heat exposure can occur indoors or outdoors, and can occur during any season if the conditions are right, not only during heat waves. The following is a list of some industries where workers have suffered heat-related illnesses.

#### Outdoors

- Agriculture
- Construction – especially, road, roofing, and other outdoor work
- Construction – roofing work
- Landscaping
- Mail and package delivery
- Oil and gas well operations

#### Indoors

- Bakeries, kitchens, and laundries (sources with indoor heat-generating appliances)
- Electrical utilities (particularly boiler rooms)
- Fire Service
- Iron and steel mills and foundries
- Manufacturing with hot local heat sources, like furnaces (e.g., paper products or concrete)
- Warehousing

#### Planning and Supervision

→ [ Employers should create plans to protect workers from developing heat-related illnesses. This Safety and Health Topics Page will help employers and workers recognize and evaluate these factors to develop effective ways to control heat risk. ]

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#### What is a Heat-Related Illness?

In a warm environment, especially when physically active, the human body relies on its ability to get rid of excess heat (i.e., heat dissipation) to maintain a healthy internal body temperature. Heat dissipation happens naturally through sweating and increased blood flow to the skin. Workers cool down more rapidly if the external (environmental) heat and physical activity (metabolic heat) are reduced.

If heat dissipation does not happen quickly enough, the internal body temperature keeps rising and the worker may experience symptoms that include thirst, irritability, a rash, cramping, heat exhaustion, or heat stroke.

Heat stroke is the most severe heat-related illness. Workers suffering from heat stroke experience mental dysfunction such as unconsciousness, confusion, disorientation, or slurred speech. **Cool these workers immediately and call 911!**

You can learn more about these and other heat-related illnesses in **Heat-Related Illnesses and First Aid**.

During heat waves, workers may experience a combination of two kinds of heat-related illness. "Exertional heat illness" results primarily from exertion (metabolic heat generated by muscle activity in the body). On the other hand, "environmental heat illness," is attributed primarily to ambient conditions, including heat and relative humidity, and is related to heat waves and death in the elderly, urban heat islands, and hot motor vehicles (Bouchama 2002).

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## How Can Heat-Related Illness Be Prevented?

Heat-related illness is preventable, especially with management commitment to providing the most effective controls. An effective heat-related illness prevention program is incorporated in a broader safety and health program and aligns with OSHA's Recommended Practices for Safety and Health Programs core elements.

Workers who have not spent time recently in warm or hot environments and/or being physically active will need time to build tolerance (acclimatize or, less frequently used, acclimate) to the heat. During their first few days in warm or hot environments, employers should encourage workers to:

- Consume adequate fluids (water and sport drinks)
- work shorter shifts,
- take frequent breaks, and
- quickly identify any heat illness symptoms.

Engineering controls such as air conditioning, with cooled air, and increased air flow, leading to increased evaporative cooling, can make the workplace safer. Other options for keeping body temperatures down in warm environments include making changes to workload and schedules. For example, empower supervisors and workers to slow down physical activity like reducing manual handling speeds or scheduling work for the morning or shorter shifts with frequent rest breaks in the shade or at least away from heat sources. Supervisors can encourage workers in warm environments to drink hydrating fluids. At a minimum, all supervisors and workers should receive training about heat-related symptoms and first aid.

Heat-related illnesses can have a substantial cost to workers and employers. Heat stress can cause fine motor performance (like rebar tying or keyboarding) to deteriorate even in acclimatized individuals. Heat illness can contribute to decreased performance, lost productivity due to illness and hospitalization, and possibly death. OSHA encourages water, rest, and shade as prevention as well as treatment for heat-related illness.

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## How Hot is Too Hot?

Occupational heat exposure is a combination of many factors. Body heat results from the equilibrium of heat gain, from internal work and outside addition, and heat loss, primarily from evaporative cooling, i.e., sweat evaporation. Contributors include:

- Physical activity
- Air temperature
- Humidity
- Sunlight
- Heat sources (e.g., ovens or furnaces, heat-absorbing roofs, and road surfaces)
- Air movement
- Clothing that hampers the body's ability to lose excess heat, such as protective gear
- Individual/personal risk factors, (e.g., pre-existing health conditions and lifestyle)

Management should commit to considering all factors that contribute to body temperature increase when determining if a heat hazard is present in a workplace. Physical activity (workload) can be estimated using tables such as this one. Employers should also be aware of whether workers' clothing increases risk.

In addition to a thermometer, use these resources to assess heat stress:

- Use an on-site wet bulb globe temperature (WBGT) meter - the most accurate way (Morris 2018) to measure environmental heat impact on body temperature. WBGT incorporates temperature, humidity, sunlight, and air movement into a single measurement. See OSHA's guidance for using and interpreting WBGT.

Download the NIOSH/OSHA Heat App [iOS | Android] to access a simple heat calculator on your device. Remember that the Heat App provides only heat index (HI), not WBGT, although it does also provide workload guidance.

More »

## Personal Risk Factors

Some workers are more susceptible to heat-related illness. Personal risk factors include medical conditions, lack of physical fitness, previous episodes of heat-related illness, alcohol consumption, drugs, and use of certain medication. Management should commit to preventing heat-related illness for all employees regardless of their heat tolerance levels. Measurement of heart rate, body weight, or body temperature (physiologic monitoring) can provide individualized data to aid decisions about heat controls.

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### What Other Resources are Available?

Some workers are more susceptible to heat-related illness. Personal risk factors include medical conditions, lack of physical fitness, previous episodes of heat-related illness, alcohol consumption, drugs, and use of certain medication. Management should commit to preventing heat-related illness for all employees regardless of their heat tolerance levels. Measurement of heart rate, body weight, or body temperature (physiologic monitoring) can provide individualized data to aid decisions about heat controls.

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### What Other Resources are Available?

OSHA has a Campaign to Keep Workers Safe in the Heat.

OSHA's Technical Manual (OTM) Section III: Chapter 4-Heat Stress provides technical information about assessing heat hazards.

A Federal agency collaboration that includes OSHA, the National Integrated Heat Health Information System, has also compiled a list of guidelines, web pages, and documents with information about keeping the public, including workers, safe in the heat.

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### Standards

Washington, Minnesota, and California have specific laws governing occupational heat exposure. Federal OSHA has a General Duty Clause (Section 5[a][1] of the Occupational Safety and Health Act of 1970) that requires employers to provide a place of employment that is "free from recognized hazards that are causing or are likely to cause death or serious physical harm to employees." The OSHA Technical Manual Chapter on Heat Stress establishes that OSHA uses WBGT to determine if a heat hazard was present.

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Safety and Health Topics / Heat

# Heat

## Occupational Heat Exposure Menu

### Workers' Rights

#### Prevention

Heat-related illnesses can be prevented. Prevention requires employers and workers to recognize heat hazards. Management should commit to:

- Take extra precautions to protect new workers.
- Train supervisors and workers to control and recognize heat hazards.
- Determine, for each worker throughout each workday, whether total heat stress is too high, both from the conditions of that day and recognizing carryover effect possibilities.
- Implement engineering and administrative controls to reduce heat stress.
- Provide sufficient rest, shade, and fluids.

You can learn more about these preventive measures by exploring the links on this page.

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**Exhibit 6****ARTICLE 3 MANAGEMENT RIGHTS**

The Employer shall have the exclusive right, subject to the provisions of this Agreement and consistent with applicable laws and regulations:

- A. To direct employees of the Employer in the performance of official duties;
- B. To hire, promote, transfer, assign, and retain employees in positions within the Postal Service and to suspend, demote, discharge, or take other disciplinary action against such employees;
- C. To maintain the efficiency of the operations entrusted to it;
- D. To determine the methods, means, and personnel by which such operations are to be conducted;
- E. To prescribe a uniform dress to be worn by letter carriers and other designated employees; and
- F. To take whatever actions may be necessary to carry out its mission in emergency situations, i.e., an unforeseen circumstance or a combination of circumstances which calls for immediate action in a situation which is not expected to be of a recurring nature.

(The preceding Article, Article 3, shall apply to City Carrier Assistant Employees.)

The Postal Service's exclusive rights under Article 3 are basically the same as its statutory rights under the Postal Reorganization Act, 39 U.S.C. Section 1001(e). While postal management has the right to manage the Postal Service, it must act in accordance with applicable laws, regulations, contract provisions, arbitration awards, letters of agreement, and memoranda. Consequently, many of the management rights enumerated in Article 3 are limited by negotiated contract provisions. For example, the Postal Service's Article 3 right to suspend, demote, discharge, or take other disciplinary action against employees is subject to the provisions of Articles 15 and 16.

**Article 3.F Emergencies.** This provision gives management the right to take whatever actions may be necessary to carry out its mission in emergency situations. An emergency is defined as an unforeseen circumstance or a combination of circumstances which calls for immediate action in a situation which is not expected to be of a recurring nature.

**Emergencies—Local Implementation Under Article 30.** Article 30.B.3 provides that a Local Memorandum of Understanding (LMOU) may include, among other items, guidelines for the curtailment or termination of postal operations to conform to orders of local authorities or as local conditions warrant because of emergency conditions.

**Exhibit 7****ARTICLE 5 PROHIBITION OF UNILATERAL ACTION**

The Employer will not take any actions affecting wages, hours and other terms and conditions of employment as defined in Section 8(d) of the National Labor Relations Act which violate the terms of this Agreement or are otherwise inconsistent with its obligations under law.

(The preceding Article, Article 5, shall apply to City Carrier Assistant Employees.)

**Prohibition on Unilateral Changes.** Article 5 prohibits management from taking any unilateral action inconsistent with the terms of the existing agreement or with its obligations under law. Section 8(d) of the National Labor Relations Act prohibits an employer from making unilateral changes in wages, hours, or working conditions during the term of a collective bargaining agreement.

In H1N-5G-C 14964, March 11, 1987 (C-06858) National Arbitrator Bernstein wrote concerning Article 5:

The only purpose the Article can serve is to incorporate all the Service's "obligations under law" into the Agreement, so as to give the Service's legal obligations the additional status of contractual obligations as well. This incorporation has significance primarily in terms of enforcement mechanism—it enables the signatory unions to utilize the contractual vehicle of arbitration to enforce all of the Service's legal obligations. Moreover, the specific reference to the National Labor Relations Act is persuasive evidence that the parties were especially interested in utilizing the grievance and arbitration procedure spelled out in Article 15 to enforce the Service's NLRB commitments.

Not all unilateral actions are prohibited by the language in Article 5—only those affecting wages, hours, or working conditions as defined in Section 8(d) of the National Labor Relations Act. Additionally, certain management decisions concerning the operation of the business are specifically reserved in Article 3 unless otherwise restricted by a specific contractual provision.

**Past Practice**

The following explanation represents the national parties' general agreement on the subject of past practice. The explanation is not exhaustive, and is intended to provide the local parties general guidance on the subject. The local parties must ensure that the facts surrounding a dispute in which past practice plays a part are surfaced and thoroughly developed so an informed decision can be made.



## 4 Postal Service Safety and Health Program

### 4-1 OSHA Voluntary Guidelines

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The Postal Service has adopted the OSHA voluntary safety and health program management guidelines provided below:

- a. *Management leadership and employee participation:*
  - Management commitment and employee involvement are complementary.
  - Management commitment provides the motivating force and the resources for organizing and controlling activities within an organization.
  - Employee involvement provides the means through which workers develop and express their own commitment to safety and health protection.
- b. *Workplace analysis (surveys and job hazard analysis, inspections and hazard controls, and employee hazard reporting):*
  - Work-site analysis involves a variety of work-site examinations to identify not only existing hazards, but also the conditions and operations where changes might occur to create hazards.
  - Effective management actively analyzes the work and the work site to anticipate and prevent harmful occurrences.
- c. *Accident reporting, investigation, and analysis:*
  - Reporting and investigation provides for investigation of accidents and near-miss incidents so that their causes and means for prevention are identified.
  - Analysis of injury and illness trends over time provides for identification of common causes and development of preventive measures.
- d. *Hazard prevention and control:*
  - This activity is triggered by a determination that a hazard or potential hazard exists.
  - Where elimination is feasible, hazards are prevented by effective design of job tasks and/or the job site.
  - Where elimination is not feasible, hazards are controlled to prevent unsafe conditions and unhealthful exposure.

- Elimination or control is accomplished in a timely manner.
- e. *Emergency response:*
  - Effective emergency response includes written emergency action plans, training, fire inspections, and first aid.
- f. *Safety and health training:*
  - Effective safety and health training addresses the safety and health responsibilities of all personnel, whether salaried or hourly.
  - Safety and health training is most effective when incorporated into other training about performance requirements and job practices.
  - The complexity of training depends on the size and complexity of the work site and nature of hazards.
  - Effective safety and health training ensures that all employees understand the hazards to which they may be exposed and how to prevent harm to themselves and others from exposure to these hazards.
  - Such training ensures that supervisors carry out their safety and health responsibilities, including: (1) analyzing the work under their supervision to identify unrecognized potential hazards; (2) maintaining physical protection in work areas; (3) reinforcing employee training through continual performance feedback; and (4) enforcing safe work practices.
- g. *Motor vehicle safety and driver training:*
  - Effective motor vehicle safety and driver training ensures proper driver selection, training, and supervision, in accordance with Handbook EL-804, *Safe Driver Program*.
  - Such training ensures compliance with U.S. Department of Transportation regulations.

## 4-2 Postal Service Program

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### 4-2.1 Requirements

Managers must demonstrate a commitment to providing safe and healthful working conditions in all Postal Service–owned and –leased installations and become involved in day-to-day safety performance. They must be held accountable for safety performance and compliance with OSHA standards and regulations.

In facilities that do not have a full-time safety professional assigned, installation heads must designate an Executive and Administrative Schedule (EAS) employee as Facility Safety Coordinator (FSC).

### 4-2.2 Program Elements

The Postal Service program elements include:

- Management Commitment, Involvement, and Accountability.

## 1 Accident Prevention

### 1-1 Supervisor's Responsibilities

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The Occupational Safety and Health Act requires employers to provide a safe and healthful workplace free of recognized hazards and to follow Occupational Safety and Health Administration (OSHA) standards. Employers' responsibilities also include providing training, medical examinations, and record keeping.

As a Postal Service supervisor, you are the backbone of our Safety and Health Program. You are in a highly visible leadership position that requires setting the standard for accident prevention. You are responsible for implementing written programs and action plans, monitoring employees' safety performance, and preventing operational safety errors. To properly exercise your responsibility, you must know Postal Service safety rules and regulations and the rights and responsibilities of the employees you supervise. (Employee rights and responsibilities are explained in [1-4](#).)

You can find safety rules and regulations in this handbook and in:

- a. Handbook EL-814, *Postal Employee's Guide To Safety*.
- b. Chapter 8 of the *Employee and Labor Relations Manual* (ELM).
- c. Handbook EL-803, *Maintenance Employee's Guide To Safety*.
- d. Publications listed in appendix D.

### 1-2 Postal Service Safety Philosophy

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The Postal Service's position is that:

- a. Any injury can be prevented. This goal is realistic, not just theoretical. Supervisors or managers having primary responsibility for the well-being of employees must fully accept this principle.
- b. Management, including all levels through the initial-level supervisor, is responsible and accountable for the prevention of accidents and control of resultant losses. Just as the line organization is responsible for attaining production levels, ensuring quality of performance, maintaining good employee relations, and operating within cost and budget guidelines, supervisors and managers must likewise accept their share of responsibility for the safety and health of employees.
- c. It is possible to safeguard all operating exposures that can result in accidents and injuries, but it is better to eliminate the sources of

danger. However, where this is not practical, management must use protective measures, such as machine guards, safety devices, and personal protective equipment, and take administrative actions.

- d. All employees must be trained in proper work procedures and must be educated to work safely and to understand that they are responsible for doing so. Management is responsible for the adequate safety training and education of employees. However, all employees must be convinced that they are responsible for working safely, and that in doing so, they benefit not only their organization but also themselves.
- e. From the standpoint of both efficiency and economy, preventing personal injuries on and off the job is good business practice. Injuries cost money, reduce efficiency, and cause human suffering.

## 1-3 Good Safety Supervision

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Carefully review [Exhibit 1-3](#), Seven Keys to Good Safety Supervision, to reduce or eliminate accidents in your work unit.

safety professional. In addition to performing the functions found in ELM Chapter 8, Safety and Health, the safety professional does the following:

- a. Provides advice and technical knowledge to all levels of management about safety, health, and fire protection matters.
- b. Reviews safety, health, and fire protection plans.
- c. Recommends actions and solutions to resolve safety and health problems.
- d. Helps to train supervisors so they can better fulfill their safety responsibilities.
- e. Helps to orient new employees by informing them of their safety responsibilities.
- f. Develops, administers, and promotes safety and health programs.
- g. Provides management with an analysis of accidents so action plans can be developed.
- h. Coordinates with appropriate environmental professionals on environmental issues that affect employee health.

## 1-7 Safety Talk Requirements

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Scheduled safety talks are intended to promote safety awareness. All line supervisors are required to conduct safety talks at least once a week with their employee groups, including temporary, casual, and relief personnel.

It is important to make the topics of safety talks relevant to your work situation and interesting to your employees. Involve them in developing topics and provide an opportunity for discussion and demonstration when applicable. Publication 129, *Safety Talks*, is an excellent resource.

Your talks can be an effective method of maintaining interest in safety.

Review these keys to making a good safety talk:

- a. Prepare your talk carefully.
- b. Try to confine each talk to one major subject; avoid rambling.
- c. Choose a general or specific safety policy or subject, but keep the talk interesting and targeted.
- d. Be specific whenever possible. For example, if you discuss housekeeping, highlight the danger of loose objects on the floor.
- e. Use visual aids or demonstrations to make your talk more interesting.

You must keep a record of all safety talks on file for 3 years, including the following:

- a. The date, time, and unit where the safety talk was given.
- b. The name of the person giving the talk.
- c. The subject of the talk.
- d. The names of employees attending the safety talk. An annotated unit roster or other automated attendance document is acceptable.



# Exhibit 10

## 8 Safety, Health, and Environment

### 810 Occupational Safety and Health Program

#### 811 General

##### 811.1 Authority

The Postal Service™ is subject to Public Law Number 91–596, the Occupational Safety and Health (OSH) Act of 1970, pursuant to the Postal Employees Safety Enhancement Act (PESEA) of 1998. The OSH Act provides for citations, penalties, and criminal referrals for those employers who fail to comply. The Occupational Safety and Health Administration (OSHA) is responsible for promulgating and enforcing standards and regulations under the OSH Act.

##### 811.2 Principles

###### 811.21 Management Commitment, Involvement, and Accountability

Managers must:

- a. Demonstrate a commitment to providing safe and healthful working conditions in all Postal Service owned and leased installations,
- b. Become involved in day-to-day safety performance, and
- c. Be held accountable for safety performance and compliance with OSHA standards and regulations (see Handbook EL-802, *Executives' and Managers' Safety and Health Program and Compliance Guide*).

###### 811.22 Vision Statement

The Postal Service will become a leader in occupational safety and health for the federal government and private sector by demonstrating a commitment to integrating safe work practices into all of our services. The Postal Service is committed to participation in the OSHA Voluntary Protection Programs (VPP). (See [811.25](#).) The Postal Service also engages in innovative safety efforts such as the Ergonomics Program and joint labor–management safety and health committees (see [816](#)).

###### 811.23 Guiding Principles

The guiding principles of the Postal Service are the following:

- a. *People* — Employees are our most valued resource. Our employees must be provided a safe and healthful workplace.
- b. *Customers* — When our employees work more safely, our performance improves.
- c. *Excellence* — We can demonstrate that management and employee attention to working safely is good business.
- d. *Integrity* — As a leader in occupational safety and health, we enhance our integrity with our customers, business partners, and Congress.
- e. *Community Responsibilities* — When our employees work safely, our customers are safer, and we lead other employers by example.

###### 811.24 Safety Philosophy

The safety philosophy of the Postal Service is stated below:

- a. Any occupational injury or illness can be prevented. This goal is realistic, not theoretical. Supervisors and managers have primary responsibility for the well-being of employees and must fully accept this principle.
- b. Management, which encompasses all levels including the first-line supervisor, is responsible and accountable for the prevention of accidents and control of resultant losses. Just as the line organization is responsible for attaining production levels, ensuring quality of performance, maintaining good employee relations, and operating within cost and budget guidelines, supervisors and managers must likewise accept their share of responsibility for the safety and health of employees.
- c. It is possible to safeguard against all operating exposures that can result in accidents, injuries, and illnesses. It is preferable to eliminate the sources of danger. However, where this is not practical, management must use protective measures, including:
  1. Administrative controls,
  2. Machine guards,
  3. Safety devices, and
  4. Personal protective equipment.
- d. All employees must be trained in proper work procedures and must be educated to work safely and to understand that they are responsible for doing so. Management is responsible for the adequate safety training and education of employees. However, all employees are responsible for working safely, and in doing so, they benefit not only themselves but also their organization.
- e. It is good business practice in terms of efficiency and economy to prevent personal injuries on and off the job. Injuries cost money, reduce efficiency, and cause human suffering.

###### 811.25 Voluntary Protection Programs

The Postal Service is committed to participation in OSHA's Voluntary Protection Programs (VPP). This program recognizes and establishes partnerships with businesses and worksites that show excellence in occupational safety and health. The Postal Service is committed to effective employee protection beyond the requirements of OSHA standards. The Postal Service is also committed to developing and implementing systems that effectively identify, evaluate, and control occupational hazards to prevent employee injuries and illnesses. Postal Service VPP implementation and maintenance procedures, based on the latest criteria from OSHA, are available on the Safety Resources Web site.

##### 811.3 Off-site Safety

The Postal Service safety and health program and OSHA standards and regulations cover Postal Service employees who perform Postal Service duties in private employers' establishments, as well as while delivering mail and performing other activities off Postal Service property. To ensure that employees are protected, safe and healthful working conditions must be provided through:

- a. Engineering and administrative controls,
- b. Personal protective equipment (PPE),
- c. Enforcement of safe work practices,
- d. Withdrawal of employees from the private sector facility, and
- e. If necessary, curtailment of mail.

##### 811.4 Records Retention and Disposition

###### 811.41 Records Control Schedule

General retention and disposal instructions for the records and forms referenced in [810](#) through [850](#) can be found in the appendix, Records Control Schedules. Additional information can be found in Handbook AS-353, *Guide to Privacy, the Freedom of Information Act, and Records Management*, section 6-3.3, Retention Periods, and in the Electronic Records and Information Management Systems (eRIMS) on the intranet.

###### 811.42 PS Form 8214, Certificate of OSHA, Safety, and Environmental Records Transfer

OSHA requires each establishment to maintain records and produce them when requested. The purpose of PS Form 8214 is to ensure that these required records are transferred when there is a change in establishment or installation head at a Post Office, station, or branch.



## 812 Management Responsibilities

### 812.1 Headquarters

#### 812.11 Postmaster General and Chief Executive Officer

The Postmaster General and chief executive officer is responsible for establishing and maintaining an effective, comprehensive national occupational safety and health program that fully complies with the OSH Act.

#### 812.12 Chief Operating Officer and Executive Vice President

The chief operating officer and executive vice president ensures that area management implements and maintains effective area safety and health programs by, among other activities, monitoring Area Executive Safety and Health Committee activities during quarterly business reviews.

#### 812.13 Officers

Officers of the Postal Service are delegated the authority and responsibility to ensure safe and healthful working conditions and practices within their functional areas and to ensure compliance with OSHA standards and regulations.

#### 812.14 Vice President of Employee Resource Management

The vice president of Employee Resource Management is delegated the authority and responsibility to administer and evaluate the national safety and health program.

### 812.2 Area Offices

#### 812.21 Vice President of Area Operations

Vice presidents of Area Operations are responsible for providing effective safety and health programs in their areas and for ensuring compliance with OSHA standards and regulations.

#### 812.22 Area Human Resources Managers

Area Human Resources managers are responsible for monitoring area safety and health programs and performance in compliance with national policy and direction.

### 812.3 District Managers

#### 812.31 District Managers

District managers are responsible for implementing the occupational safety and health programs within their jurisdiction. Additionally, they must develop a district accident reduction plan (ARP) using the Safety Toolkit to achieve the corporate objectives of reducing injury, illness, and motor vehicle accidents. Refer to the Safety Resources Web site and the Safety Toolkit for additional information on developing, implementing, and monitoring ARPs.

#### 812.32 Installation Heads and Managers

Installation heads and managers are responsible for:

- a. Employee safety and health;
- b. Implementation of the occupational safety and health program;
- c. Compliance with OSHA standards and regulations, including maintenance of the accident reports, OSHA Log, and Summary of Injuries and Illnesses through the Employee Health and Safety (EHS) system; and
- d. Developing, implementing, and monitoring facility ARPs using the Safety Toolkit to achieve the corporate objectives of reducing injuries, illnesses, and motor vehicle accidents. Refer to the Safety Resources site and the Safety Toolkit for additional information on developing, implementing, and monitoring ARPs.

Installation heads are encouraged to attend annual safety and health training.

### 812.4 Middle-Level Managers

Middle-level managers are responsible for the safety and health program within their operations. This includes responsibility for:

- a. Administering OSHA-mandated written programs;
  - b. Conducting accident prevention activities;
  - c. Training employees; and
  - d. Evaluating the safety performance of supervisors.
- e. Coordinating activities, including correction of safety deficiencies, with other operational managers.

Middle-level managers are encouraged to attend annual safety and health training.

### 812.5 Supervisors' Responsibilities

#### 812.51 General

Supervisors are responsible for:

- a. Identifying and correcting physical hazards;
- b. Investigating and reporting accidents;
- c. Administering OSHA-mandated written programs;
- d. Conducting accident prevention activities;
- e. Training employees;
- f. Developing job safety analyses; and
- g. Enforcing safe work practices.

Supervisors are encouraged to attend annual safety and health training.

#### 812.52 Observation of Work Practices

Supervisors will observe employees' work practices to ensure that they are working safely and document their observations on:

- a. PS Form 4588, *Observation of Work Practices — Delivery Services*, or
- b. PS Form 4589, *Observation of Work Practices — General*, whichever is appropriate.

When used correctly, these forms can:

- a. Help the supervisor and the employee to identify and eliminate work practices that could lead to accidents and injuries.
- b. Give the supervisor an opportunity to recognize and reinforce safe work practices.

### 812.6 Safety and Health Objectives

For each fiscal year, managers at every level in every function must have in their performance plans safety and health objectives tied to corporate safety indicators and their facility-specific ARPs. Annually, Headquarters will issue management policy and procedures for ARPs tailored to address national safety indicators and priorities.



# Exhibit II

## 812 Management Responsibilities

### 812.1 Headquarters

#### 812.11 Postmaster General and Chief Executive Officer

The Postmaster General and chief executive officer is responsible for establishing and maintaining an effective, comprehensive national occupational safety and health program that fully complies with the OSH Act.

#### 812.12 Chief Operating Officer and Executive Vice President

The chief operating officer and executive vice president ensures that area management implements and maintains effective area safety and health programs by, among other activities, monitoring Area Executive Safety and Health Committee activities during quarterly business reviews.

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### 812.2 Area Offices

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Area Human Resources managers are responsible for monitoring area safety and health programs and performance in compliance with national policy and direction.

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#### 812.31 District Managers

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#### 812.32 Installation Heads and Managers

Installation heads and managers are responsible for:

- a. Employee safety and health;
- b. Implementation of the occupational safety and health program;
- c. Compliance with OSHA standards and regulations, including maintenance of the accident reports, OSHA Log, and Summary of Injuries and Illnesses through the Employee Health and Safety (EHS) system; and
- d. Developing, implementing, and monitoring facility ARPs using the Safety Toolkit to achieve the corporate objectives of reducing injuries, illnesses, and motor vehicle accidents. Refer to the Safety Resources site and the Safety Toolkit for additional information on developing, implementing, and monitoring ARPs.

Installation heads are encouraged to attend annual safety and health training.

### 812.4 Middle-Level Managers

Middle-level managers are responsible for the safety and health program within their operations. This includes responsibility for:

- a. Administering OSHA-mandated written programs;
  - b. Conducting accident prevention activities;
  - c. Training employees; and
  - d. Evaluating the safety performance of supervisors.
- e. Coordinating activities, including correction of safety deficiencies, with other operational managers.

Middle-level managers are encouraged to attend annual safety and health training.

### 812.5 Supervisors' Responsibilities

#### 812.51 General

Supervisors are responsible for:

- a. Identifying and correcting physical hazards;
- b. Investigating and reporting accidents;
- c. Administering OSHA-mandated written programs;
- d. Conducting accident prevention activities;
- e. Training employees;
- f. Developing job safety analyses; and
- g. Enforcing safe work practices.

Supervisors are encouraged to attend annual safety and health training.

#### 812.52 Observation of Work Practices

Supervisors will observe employees' work practices to ensure that they are working safely and document their observations on:

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When used correctly, these forms can:

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### 812.6 Safety and Health Objectives

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# Exhibit 12

## 817 Training and Education

### 817.1 Management Training and Education

#### 817.11 Postmasters, Managers, and Supervisors

All Postmasters, managers, and supervisors must receive safety and health training in accordance with the curriculum established by Safety and OSHA Compliance Programs (SOCP) and Learning and Development. Local offices, districts, and Headquarters provide this training. Postmasters, managers, and supervisors are encouraged to attend annual safety and health training.

#### 817.12 Executives and Managers

Executives and managers at the plant level and above must be provided an orientation that discusses their responsibility for:

- Safety and health program commitment, involvement, and accountability.
- OSHA compliance.
- Elements contained in a safety and health program evaluation.
- Accident investigation and reporting.
- Safety and health training requirements.
- Accident reduction plans (ARPs).
- Ergonomics.

### 817.2 Safety and Health Staff Training and Education

#### 817.21 Safety Specialists

All safety staff must obtain a level of expertise in safety training through participation in and completion of the core curriculum safety courses taught by the National Center for Educational Development (NCED), or as established by SOCP. Safety personnel must be provided, at least annually, professional training and education to enable them to carry out their basic duties and to fulfill their roles as advisors and consultants to management. To maintain their technical proficiency, safety personnel are encouraged to pursue professional credentials and advanced education, and to participate in professional safety and health-related organizations. Management must give a high priority to supporting these efforts to realize a professional safety staff. Specialized training not available within the Postal Service may be authorized in accordance with 740.

#### 817.22 Facility Safety Coordinators

Facility safety coordinators (FSCs) must obtain a level of safety expertise commensurate with their responsibilities through the FSC training course and the Safety for Supervisors course. Annual attendance of at least 8 hours of safety training is required. Management must give FSC training a high priority.

### 817.3 Joint Labor-Management Safety and Health Committee Orientation

Each member of a local committee must receive an orientation by the Postal Service that includes:

- Responsibilities of the committee and its members.
- OSHA compliance.
- Basic elements of the safety and health program to include safety inspections.
- Identification and analysis of hazards and unsafe practices, including job safety analysis, and ergonomic task analysis.
- Explanation of reports and statistics to be reviewed and analyzed by the committee.

To meet the requirements listed above, safety and health committee members must attend the Safety and Health Committee training course (specified in Handbook EL-809T, *Area/Local Joint Labor-Management Safety and Health Committee Training*).

### 817.4 General Safety Orientation for Employees

All employees, including non-career employees, must receive a general safety and health orientation and sufficient on-the-job training to enable them to follow safe work practices, to recognize hazards, and to understand the benefits to be gained by following safe work practices. Such training must also include:

- Site-specific safety rules,
- Specific job safety analyses,
- Required OSHA programs,
- Emergency evacuation procedures, and
- OSHA rights and responsibilities (see 817.5).

### 817.5 Training Required by OSHA

#### Reference Note:

For further information about training required by OSHA, refer to the following Handbook (HBK) and Management Instructions (MIs):

- HBK AS-556, *Asbestos Management Guide*
- MI EL-810-2009-4, *Personal Protective Equipment and Respiratory Protection Programs*
- MI EL-810-2000-2, *Bloodborne Disease Exposure Control Plans*
- MI EL-810-2000-1, *Hearing Conservation Programs*
- MI EL-890-2007-4, *Lead Hazard Management Program*
- MI EL-890-2007-2, *Asbestos-Containing Building Materials Control Program*
- MI EL-810-2006-3, *Response to Hazardous Materials Releases*
- MI EL-810-2008-4, *Hazard Communication (HazCom) Program*
- MI EL-810-2010-1, *Confined Space Safety Program*

Maintenance Management Orders (MMOs) on safety-related subjects such as lockout/tagout, hazard communication, and personal protective equipment are available on the Maintenance Technical Support Center's Web site: [www.mtsc.usps.gov](http://www.mtsc.usps.gov).

Additional guidance is available in the Safety Training Matrix located on the Safety Resources Web site. Go to <http://blue.usps.gov/wps/portal> in the left column, under "Essential Links," click on *Safety Resources*, then click *A to Z Index*, then *Safety Training*.

#### 817.51 Standard Curriculum

Learning and Development, in coordination with SOCP and other Headquarters functional areas, is responsible for developing, implementing, and keeping current a safety and health training curriculum to comply with OSHA standards and Postal Service policies. Managers and supervisors at all levels must refer to this curriculum and ensure that all affected employees are trained and that training is current and properly recorded.

#### 817.52 Special Emphasis Training Programs

Special emphasis training programs must be developed and initiated by Headquarters, areas, districts, plants, and other offices, as appropriate, to:

- Reduce the principal causes of accidents and injuries, musculoskeletal disorders (MSDs) and occupational illnesses, and
- Ensure compliance with OSHA requirements.

#### 817.53 Training in Handling Hazardous Materials

In installations where employees handle or transport potentially hazardous materials, the installation head must establish a program of promoting safety awareness through communications or training, as appropriate (see MI-EL-810-2008-4, *Hazard Communication (HazCom) Program*). Such a program must include, but is not limited to, the following elements.

- a. Posting information, pamphlets, or articles in Postal Service publications, such as area bulletins, and use of distributed posters or videos.
- b. Distribution of current Publication 52, *Hazardous, Restricted, and Perishable Mail*, to employees whose duties may require acceptance or dispatch of hazardous, restricted, or perishable items.
- c. Distribution of current Handbook EL-812, *Hazardous Materials and Spill Response*, to employees whose duties may include handling of hazardous materials and initial response to spills and leaks (First Responder Awareness Level). Acceptance and dispatch personnel must use Tag 44, *Sack Contents Warning*, to appropriately identify all mailbags containing only biological substances in Category "B" (UN 3373).
- d. Training in on-the-job awareness for employees whose duties may require the handling or transportation of hazardous, restricted, or perishable items. Training must include, but is not limited to, the following:
  - 1. Hazard identification,
  - 2. Proper handling of hazardous materials,
  - 3. Personal protective equipment availability and use, and
  - 4. Cleanup and disposal requirements for hazardous materials.

This includes Aviation Mail Security hazardous materials training.

**817.6 Refresher Training**

Motor vehicle, powered industrial truck, asbestos, hazardous materials, and other refresher training programs must be provided and updated as needed per OSHA regulations and Postal Service policies. Such programs must also be used for correcting improper work practices before accidents result and for improving work practices after an accident.

Refresher training requirements are included in the Safety Training Matrix located on the Safety Resources Web site.

**817.7 Training in New or Additional Equipment and Techniques**

Training must be provided when new or additional equipment or techniques are deployed that may, if not properly used, adversely affect safe and healthful working conditions, OSHA compliance, or both.

**817.8 OSHA Job Safety and Health Protection Posters**

Each facility must post OSHA Poster 3165, *Job Safety and Health Protection*, in a conspicuous place. This poster outlines management responsibilities and employee responsibilities and rights under the OSH Act. Poster 3165 and the Spanish-language version, Poster 3167, are available from the Material Distribution Center.

**817.9 Training Records**

For each employee, records of safety and health training must be maintained to demonstrate compliance with Postal Service policies and OSHA requirements. The records must be retained and available to allow inspection by Postal Service and OSHA officials. All safety training must be recorded in the Learning Management System (LMS).

**Note:** Documentation of safety talks and safety-related on-the-job training must be maintained either at the facility level or in the case of safety talks, in the Safety Talks module of the Safety Toolkit. These records must be available to allow inspection in a timely manner.

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# Exhibit 13

## 665 Postal Service Standards of Conduct

### 665.1 General Expectations

#### 665.11 Loyalty

Employees are expected to be loyal to the United States government and uphold the policies and regulations of the Postal Service.

#### 665.12 Performance of Public Duties

Employees are expected to serve on juries and to act as witnesses when summoned by official sources.

#### 665.13 Discharge of Duties

Employees are expected to discharge their assigned duties conscientiously and effectively.

#### 665.14 Reporting Violations

Allegations of violations of postal laws by postal employees, including mail theft, must be reported immediately to the Office of Inspector General.

#### 665.15 Obedience to Orders

Employees must obey the instructions of their supervisors. If an employee has reason to question the propriety of a supervisor's order, the individual must nevertheless carry out the order and may immediately file a protest in writing to the official in charge of the installation or may appeal through official channels.

#### 665.16 Behavior and Personal Habits

Employees are expected to conduct themselves during and outside of working hours in a manner that reflects favorably upon the Postal Service. Although it is not the policy of the Postal Service to interfere with the private lives of employees, it does require that postal employees be honest, reliable, trustworthy, courteous, and of good character and reputation. The Federal Standards of Ethical Conduct referenced in 662.1 also contain regulations governing the off-duty behavior of postal employees. Employees must not engage in criminal, dishonest, notoriously disgraceful, immoral, or other conduct prejudicial to the Postal Service. Conviction for a violation of any criminal statute may be grounds for disciplinary action against an employee, including removal of the employee, in addition to any other penalty imposed pursuant to statute.

#### 665.17 Reporting Requirements for Sex Offenders

An employee who is required by the law of any jurisdiction to register as a sex offender must report in writing that he or she is subject to this requirement, as follows:

- Any employee who is not an Area or Headquarters employee must make their report to the District Manager of Human Resources; Area employees must make their report to their Area Manager of Human Resources; and Headquarters employees must make their report to the Headquarters Manager, Corporate Personnel.
- An employee who first registers as a sex offender on or after May 24, 2007, must make this report to management within 10 calendar days after the employee first registers as a sex offender.
- An employee who registered as a sex offender at any time before May 24, 2007, must make this report to management no later than June 4, 2007.
- If, after making his or her first report to management, the employee is required to register as a sex offender in a different jurisdiction, or to register anywhere because the employee has committed an additional offense, the employee must inform management within 10 calendar days after so registering.

### 665.2 Prohibited Conduct

#### 665.21 Incomplete Mail Disposition

It is a criminal act for anyone who has taken charge of any mail to quit voluntarily or desert the mail before making proper disposition of the mail according to 18 U.S.C. 1700.

#### 665.22 Unofficial Recommendations

Employees must not recommend or suggest the employment of any person offering services as a consultant, agent, attorney, expediter, or the like, for the purpose of assisting in any negotiation, transaction, or other business with the Postal Service unless required to do so as part of their official duties.

#### 665.23 Discrimination

Employees acting in an official capacity must not directly or indirectly authorize, permit, or participate in any action, event, or course of conduct that subjects any person to discrimination, or results in any person being discriminated against on the basis of:

- Race, color, sex (including pregnancy, sexual orientation, or gender identity, including transgender status), national origin, religion, age (40 or over), genetic information, disability, or retaliation for engaging in EEO-protected activity as provided by law; or
- Other non-meritorious factors, such as political affiliation; marital status; status as a parent, and past, present, or future military service.

#### 665.24 Violent and/or Threatening Behavior

The Postal Service is committed to the principle that all employees have a basic right to a safe and humane working environment. In order to ensure this right, it is the unequivocal policy of the Postal Service that there must be no tolerance of violence or threats of violence by anyone at any level of the Postal Service. Similarly, there must be no tolerance of harassment, intimidation, threats, or bullying by anyone at any level. Violation of this policy may result in disciplinary action, including removal from the Postal Service.

#### 665.25 Illegal Drug Sale, Use, or Possession

The Postal Service will not tolerate the sale, possession, or use of illegal drugs, or the abuse of legal drugs while on duty or on postal premises. Employees found to be engaged in these activities are subject to discipline, including removal and/or criminal prosecution where appropriate.

#### 665.26 Intoxicating Beverages

Except as provided below, employees must not drink beer, wine, or other intoxicating beverages while on duty; begin work or return to duty intoxicated; or drink intoxicating beverages in a public place while in uniform. Employees found to be violating this policy may be subject to disciplinary action.

A non-bargaining employee may consume beer or wine at an Officer Approved Event. "Officer Approved Event" means: (a) a meeting of Postal Service employees convened by management, such as a working meal, an employee recognition event, or an employee appreciation event; or (b) an event whose primary purpose is to interact with external individuals or entities, such as an industry conference, a sales meeting, or a supplier meeting; that in all cases is either attended by an Officer of the Postal Service who personally decides that the consumption of beer and wine by employees is appropriate, or with respect to which an Officer of the Postal Service has granted specific, written, and advance approval for the consumption of beer and wine by employees.

A non-bargaining employee may consume beer, wine, or other intoxicating beverages at a Postmaster General Approved Event. "Postmaster General Approved Event" means any Postal Service-related event with respect to which the Postmaster General personally approves the consumption of beer, wine, or other intoxicating beverages.

No employee may become intoxicated while at an Officer Approved Event or a Postmaster General Approved Event. Except in connection with an Officer Approved Event or a Postmaster General Approved Event occurring at a Postal Service facility or premises, no employee shall have or bring any container of beer or wine into any Postal Service facility or premises, whether the container has been opened or not. Intoxicating beverages other than beer and wine may never be brought into any Postal Service facility or premises under any circumstances.

#### 665.27 Gambling

Employees must not participate in any gambling activity while on duty or while on property owned or leased by the Postal Service or the United States. This prohibition includes the operation of any gambling device, conducting a game for money or property, or selling or purchasing a numbers slip or ticket.

**Note:** This section does not prohibit participation in activities specified here if participation is necessitated by an employee's law enforcement duties, or if participation is in accordance with Executive Order No. 10927, relating to agency-approved solicitations, or in accordance with the Randolph-Sheppard Act, when approved by postal management.

### 665.3 Cooperation in Investigations

Employees must cooperate in any postal investigation, including Office of Inspector General investigations.

### 665.4 Attendance

#### 665.41 Requirement of Regular Attendance

Employees are required to be regular in attendance. Failure to be regular in attendance may result in disciplinary action, including removal from the Postal Service.

**665.42 Absence Without Permission**

Employees who fail to report for duty on scheduled days, including Saturdays, Sundays, and holidays, are considered absent without leave except in cases where actual emergencies prevent them from obtaining permission in advance. In emergencies, the supervisor or proper official must be notified of the inability to report as soon as possible. Satisfactory evidence of the emergency must be furnished later. An employee who is absent without permission or who fails to provide satisfactory evidence that an actual emergency existed will be placed in a nonpay status for the period of such absence. The absence may be the basis for disciplinary action. However, once the employee provides management with notice of the need for leave in accordance with Family Medical Leave Act (FMLA)—required time frames, and the absence is determined to be FMLA protected, the employer must change the AWOL to approved FMLA—LWOP, and delete the AWOL status from the record.

**665.43 Tardiness**

Any employee failing to report at his or her scheduled time in installations where time recorders are not used is considered tardy. Tardiness in installations equipped with time recorders is defined as any deviation from schedule.

**665.44 Falsification in Recording Time**

Recording the time for another employee constitutes falsification of a report. Any employee knowingly involved in such a procedure is subject to removal or other discipline. Failure of a supervisor to report known late arrivals is regarded as condoning falsification. These practices may also result in criminal prosecution.

**665.5 Furnishing Address**

Employees must keep the installation head informed of their current mailing addresses. Any change in mailing addresses must be reported to the installation head on PS Form 1216, *Employee's Current Mailing Address*, through "Self Service" on the Postal Service Blue Page, or through USPS approved methods including *PostalEase*.

**665.6 Disciplinary Action**

Postal officials may take appropriate disciplinary measures to correct violations of the regulations referred to in 665.

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Exhibit 14

662 Federal Standards of Ethical Conduct

662.1 Publication

To ensure that every citizen can have complete confidence in the integrity of the federal government, each federal employee, including each postal employee, must respect and adhere to the principles of ethical conduct set forth in 5 CFR 2635, 5 CFR 7001, and 39 CFR 447.

Note: The Code of Federal Regulations can be accessed at https://www.ecfr.gov/

662.11 Ethics Advice

Employees who have questions about the application of the ethics regulations to particular situations should seek advice from an agency ethics official. Disciplinary action for violating these regulations will not be taken against an employee who has engaged in conduct in good faith reliance upon the advice of an agency ethics official, provided that the employee has made full disclosure of all relevant circumstances in seeking such advice.

However, the Postal Service may still assert the attorney-client privilege and other privileges available in the civil litigation context, and/or Freedom of Information Act (FOIA) exemptions, to protect from public disclosure information provided to an agency ethics attorney from an employee, ethics advice provided from an agency ethics attorney to an employee, and any related documents, in response to FOIA requests, news media inquiries, and other external requests for information (except when disclosure is required by law).

662.12 Ethics Officials

Employees who wish to obtain ethics advice in accordance with 662.11 above must obtain that advice from one of the following agency ethics officials or their designees: the Postal Service general counsel, the chief counsel for ethics and federal requirements, the managing counsel for the civil practice section, or the managing counsel for each field legal office. Inspection Service employees may also seek routine ethics advice from the Inspector in Charge, Office of Counsel, or designee. Office of Inspector General employees may also seek routine ethics advice from the Office of Inspector General counsel or designee.

662.2 Financial Disclosure

Certain federal and postal employees are required by law to disclose their personal financial interests in order to ensure confidence in the integrity of the federal government. The federal regulations regarding financial disclosure are set forth in 5 CFR 2634. Specific instructions regarding the financial disclosure requirements of postal employees are contained in Management Instruction EL-660-97-1, Financial Disclosure Report Procedures for the U.S. Postal Service, January 30, 1997.

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**Exhibit 15****ARTICLE 19 HANDBOOKS AND MANUALS**

Those parts of all handbooks, manuals and published regulations of the Postal Service, that directly relate to wages, hours or working conditions, as they apply to employees covered by this Agreement, shall contain nothing that conflicts with this Agreement, and shall be continued in effect except that the Employer shall have the right to make changes that are not inconsistent with this Agreement and that are fair, reasonable, and equitable. This includes, but is not limited to, the Postal Service Manual and the F-21, Timekeeper's Instructions.

Notice of such proposed changes that directly relate to wages, hours, or working conditions will be furnished to the Union at the national level at least sixty (60) days prior to issuance. At the request of the Union, the parties shall meet concerning such changes. If the Union, after the meeting, believes the proposed changes violate the National Agreement (including this Article), it may then submit the issue to arbitration in accordance with the arbitration procedure within sixty (60) days after receipt of the notice of proposed change. Copies of those parts of all new handbooks, manuals and regulations that directly relate to wages, hours or working conditions, as they apply to employees covered by this Agreement, shall be furnished the Union upon issuance.

Article 19 shall apply in that those parts of all handbooks, manuals and published regulations of the Postal Service, which directly relate to wages, hours or working conditions shall apply to CCA employees only to the extent consistent with other rights and characteristics of CCA employees provided for in this Agreement and otherwise as they apply to the supplemental work force. The Employer shall have the right to make changes to handbooks, manuals and published regulations as they relate to CCA employees pursuant to the same standards and procedures found in Article 19 of the National Agreement.

[see Memo, page 214]

**This Memo  
is located on  
JCAM pages  
19-2 and 19-3.**

**Handbooks and Manuals.** Article 19 provides that those postal handbook and manual provisions directly relating to wages, hours, or working conditions are enforceable as though they were part of the National Agreement. Changes to handbook and manual provisions directly relating to wages, hours, or working conditions may be made by management at the national level and may not be inconsistent with the National Agreement. A challenge that such changes are inconsistent with the National Agreement or are not fair, reasonable, or equitable may be made only by the NALC at the national level.

A memorandum included in the 2019 National Agreement establishes a process for the parties to communicate with each other at the national level regarding changes to handbooks, manuals, and published regulations that directly relate to wages, hours, or working conditions. The purpose of the memorandum is to provide the national parties with a better understanding of their respective positions in an effort to eliminate

# Integrity Concerns



Walker, Kathleen L - Portland, ME

To: **ME-DL-ALL POSTMASTERS; NNE-DL-POONE; ME-NH-VT IOP Team; Bugbee, Regina M - Portland, ME; ME-NH-VT Labor Relations; West, Kevin G - Boston, MA; ARMSTRONG, DALE E - SYRACUSE, NY; + 129 others**

Mon 7/31/2023 10:53 AM

Reply
 Reply All
 Forward

Recently we have received inquiries from union officials regarding inspecting records related to the certification of the annual Heat Stress training.

It has been alleged that employees have completion dates for training on days when they were not physically present at work. Employees are stating they have not received the training and that the completion record is not accurate.

Please review your records, if any discrepancies are found please take immediate action to rectify them by providing the training again and correcting the HERO completion date.

Heat Stress training is an OSHA requirement, it is imperative all our employees know how to respond to signs of Heat Stress.

Additionally, now through August, daily HEAT STRESS talks/ reminders are required. Please keep impeccable records regarding them being shared and the audience they were shared to.

**NEVER-submit or certify something as complete that isn't just to stay off a report. This is falsification and could be subject to corrective action up to, and including, removal from the USPS under ELM 665.13, 665.16, 665.44, 662.1, 18 USC 1001, 18 USC 1712 etc.**

**This reminder applies to all certifications, surveys, documents and is not limited to Heat Stress training. Again, NEVER, falsify a postal record, document, survey etc.**

KATHLEEN L. WALKER

Manager of Field Human Resources  
ME-NH-VT District  
(207)482-7150 o  
(207)210-8391 c

**Exhibit 16**



**Exhibit 17**

C-21452

REGULAR ARBITRATION PANEL

In the Matter of Arbitration )  
 )  
 between )  
 ) Grievant: George Rankin  
 UNITED STATES POSTAL )  
 SERVICE ) Case No.: F94N-4F-C 96019290 95  
 )  
 and )  
 )  
 NATIONAL ASSOCIATION OF )  
 LETTER CARRIERS )

BEFORE: Carlton J. Snow, Professor of Law

APPEARANCES: For the Employer: Mr. Dave Beauvais

For the Union: Mr. Phil Russ

PLACE OF HEARING: Palos Verdes Peninsula, California

DATES OF HEARINGS: August 15, 2000  
August 21, 2000

RECEIVED

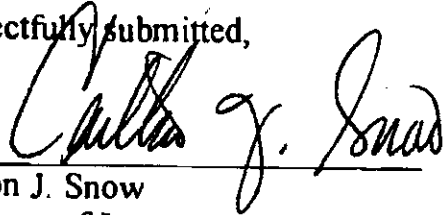
JAN 2 2001

VICE PRESIDENT'S OFFICE  
N.A.L.C. HDQTRTS., WASHINGTON, D.C.

AWARD

Having carefully considered all evidence submitted by the parties concerning this matter, the arbitrator concludes that the Employer violated the parties' collective bargaining agreement by adjusting and abolishing the grievant's assignment to Intercity 1 without following mandated contractual procedures. Since no remedy was explored at the arbitration hearing, the parties shall have 90 days from the date of this report to attempt to fashion an appropriate remedy. Either party may activate the arbitrator's jurisdiction during this time to determine a remedy if negotiations prove to be unproductive. It is so ordered and awarded.

Respectfully submitted,



Carlton J. Snow  
Professor of Law

Date: 11-27-00

REGULAR ARBITRATION PANEL

IN THE MATTER OF	)	
ARBITRATION	)	
	)	
BETWEEN	)	
	)	
UNITED STATES POSTAL	)	ANALYSIS AND AWARD
SERVICE	)	
	)	
AND	)	Carlton J. Snow
	)	Arbitrator
	)	
NATIONAL ASSOCIATION OF	)	
LETTER CARRIERS	)	
(Geoge Rankin Grievance)	)	
(Case No. F94N-4F-C 96019290 95)	)	

I. INTRODUCTION

This matter came for hearing pursuant to the 1994-1998 collective bargaining agreement between the parties. Due to a miscommunication between the parties, the hearing occurred in two segments. The first part of the hearing took place by telephone conference call on August 15, 2000. The remainder of the hearing occurred on August 21, 2000 in a conference room of the Postal Facility located at 944 Deep Valley Drive in Palos Verdes Peninsula, California. Mr. David Beauvais, Labor Relations Specialist, represented the United States Postal Service.

Mr. Phil Russ, Executive Vice-president, represented the National Association of Letter Carriers.

The hearing proceeded in an orderly manner. There was a full opportunity for the parties to submit evidence, to examine and cross-examine witnesses, and to argue the matter. All witnesses testified under oath as administered by the arbitrator. The arbitrator tape-recorded the proceeding as an extension of his personal notes. The advocates fully and fairly represented their respective parties.

There were no challenges to the substantive or procedural arbitrability of the dispute, and the parties stipulated that the matter properly had been submitted to arbitration. They authorized the arbitrator to retain jurisdiction in the matter for 90 days after issuing an award. The parties elected to submit the matter on the basis of evidence presented at the hearing as well as oral closing arguments after which the arbitrator officially closed the hearing. An injury to the arbitrator's hand followed by his secretary's eye surgery delayed preparation of a report.

II. STATEMENT OF THE ISSUE

The issue before the arbitrator is as follows:

Did the Employer violate Articles 5, 7, 13, 19, or 41 of the National Agreement when it performed a minor adjustment and subsequently abolished the Intercity 1 assignment? If so, what is the appropriate remedy?

III. RELEVANT CONTRACTUAL PROVISIONS

ARTICLE 3 - MANAGEMENT RIGHTS

The Employer shall have the exclusive right, subject to the provisions of this Agreement and consistent with applicable laws and regulations:

A. To direct employees of the Employer in the performance of official duties;

C. To maintain the efficiency of the operations entrusted to it.

D. To determine the methods, means, and personnel by which such operations are to be conducted.

ARTICLE 5 - PROHIBITION OF UNILATERAL ACTION

The Employer will not take any actions affecting wages, hours and other terms and conditions of employment as defined in Section 8(d) of the National Labor Relations Act which violate the terms of this Agreement or are otherwise inconsistent with its obligations under law.

## ARTICLE 19 - HANDBOOKS AND MANUALS

Those parts of all handbooks, manuals and published regulations of the Postal Service that directly relate to wages, hours or working conditions, as they apply to employees covered by this Agreement, shall contain nothing that conflicts with this Agreement, and shall be continued in effect except that the Employer shall have the right to make changes that are not inconsistent with this Agreement and that are fair, reasonable, and equitable. This includes, but is not limited to, the Postal Service Manual and the F-21, Timekeeper's Instructions.

### IV. STATEMENT OF FACTS

In this case, the Union challenged the Employer's decision to alter and abolish the Intercity 1 assignment held by the grievant. The grievant served as a City Letter Carrier and Chief Shop Steward at the Palos Verdes Post Office. Since 1989, the grievant's full-time assignment was Intercity 1, and it was comprised of a combination of duties, including collections, express mail, and special mail. On September 13, 1995, management made a minor adjustment to Intercity 1 by instructing the grievant to report to Unit C for router duties, effective September 14, 1995. The route was also altered by eliminating the Redondo Beach and San Pedro runs, effective September 16, 1995.

During the week of September 25-29, 1995, an office-wide inspection took place. The inspection of the grievant's route included the Palos Verdes branch run as well as the Redondo run (except on September 26), but the inspection did not include the San Pedro run. On November 3, 1995, a notice to all employees announced the elimination of Intercity 1. The elimination became effective on January 1, 1996.

The Union filed separate grievances with regard to the minor adjustment of Intercity 1 (Grievance No. 95PVC 139) and the abolishment of Intercity 1 (Grievance No. 95PVC 187). After denials at Steps 1 and 2, the matter proceeded to Step 3. During Step 3 on January 16, 1996, the parties agreed to consolidate the two grievances; and subsequently the Employer denied the combined grievance. On February 2, 1996, the Union filed a complaint with the National Labor Relations Board alleging that the Employer violated Sections 8(a)(1) and 8(a)(3) of the National Labor Relations Act by disciplining the grievant for engaging in union activities and not bargaining with the Union. On February 9, 1996, the Union submitted a request for arbitration of the consolidated grievance. On March 20, 1996, the National Labor Relations Board referred the unfair labor practice complaint to arbitration pursuant to *Collyer Insulated Wire*. (See 192 NLRB 837 (1971).)

## V. POSITION OF THE PARTIES

### A. The Union

The Union maintains that the Employer improperly adjusted and abolished Intercity 1. According to the Union, the Employer used invalid data to evaluate the routes in violation of M-39 guidelines. Since the grievant started the route in 1989, there allegedly were no route inspections until September 25, 1995. The Employer's estimate of 119 minutes for the San Pedro run, Redondo Beach, and Palos Verdes branch runs allegedly failed to isolate the number of minutes dedicated to the various runs from other combined duties performed on the way to the selected offices. Moreover, the Union argues that any commitment to Delivery Point Sequencing had or would have no effect on the grievant's route because the grievant did not sort mail.

The Union contends that, during the inspection of September 25-29, 1995, several inaccuracies occurred. The Employer allegedly failed to consider the hours of overflow that the grievant turned over to light and limited duty employees in order to assist him in completing his route. Because the Redondo run was not performed on September 26 and the Redondo carrier took express deliveries before the grievant arrived on September 25, the inspection average for that run and express deliveries



was inaccurate, according to the Union. Despite the numerous alleged inaccuracies, the Union argues that inspection data, nevertheless, showed that the grievant's route averaged 8.22 hours a day. Based on that fact and adding the runs which failed to be included in the inspection because of the minor adjustment, the Union contends that the original Intercity 1 route averaged 9.22 hours a day. The Union maintains that the Employer never consulted the grievant about the adjustment, or the abolishment, or the data collected on his route. The failure to do so allegedly violated M-39 guidelines as well as Article 5 of the parties' collective bargaining agreement.

The Union also contends that the Employer's concerns with efficiency were misplaced. While recognizing that the San Pedro run was no longer needed, the Union argues that the Employer failed to consider the fact that it was performed in conjunction with the Branch run as well as in connection with making express deliveries. Second, the Union contends that the Redondo run was also performed in conjunction with making express deliveries. The Union maintains that, during the ten years the grievant performed the Redondo run, there were no more than two occasions when he waited for mail or had no express mail to pick up. The grievant allegedly resolved even this difficulty by calling ahead to make

certain that Redondo had mail for him. Third, the Employer stipulated that transporting Branch Office mail was assigned to a clerk for the sole purpose of transporting the mail to the Branch. The Union argues that this run also had been performed in conjunction with express mail deliveries.

The Union contends that the Employer violated the parties' National Agreement by transferring runs to limited and light duty employees. The Employer stipulated that the delivery of express and special delivery mail had been assigned to limited and light duty employees. They were Employees Bartleson and Wong. Additionally, a limited duty carrier in Redondo helped perform such services. It was also stipulated that the Branch run had been assigned to a clerk.

Finally, the Union maintains that the adjustment and abolishment of Intercity 1 constituted retribution. It allegedly was retribution imposed by management on the grievant for engaging in union activities and, in the opinion of the Union, violated the National Labor Relations Act. According to the Union, there was no reason for the abolishment because all work on Intercity 1 was still being performed. The adjustment and abolishment allegedly were achieved without due process, as required by the parties' National Agreement. Other carriers allegedly had less than eight hours of work, while the grievant still had eight hours of

work. Since the relevant Postmaster took her position, the Union contends that grievances had doubled and that, as Chief Steward, the grievant obtained a number of significant awards against the Postmaster who was in office at the time of the grievance.

B. The Employer

The Employer maintains that management properly adjusted and abolished Intercity 1. According to the Employer, the actions of management were consistent with Article 3 which authorizes the Employer to maintain efficiency and to determine appropriate methods of operation. The Employer argues vigorously that the challenged operational changes generated efficiencies and were devoid of any other motivations. As the Employer sees it, a Zip Code change in San Pedro caused the San Pedro office to move to Palos Verdes. Because San Pedro carriers were working out of Palos Verdes, there was no need for the grievant to take mail to San Pedro. Second, the Redondo Beach run occasionally had no express mail for the grievant or, alternatively, required that he wait for the express mail to arrive. Elimination of the run insured that there was no waiting, no

needless trips, and no wasted time calling Redondo Beach to inquire if the grievant needed to make the run. Third, the Palos Verdes Branch Office eliminated a full-time clerk, which made it necessary for a Main office clerk to box and sort the mail. The clerk also delivered the mail between the offices to prevent duplicative runs by the grievant and the clerk. Fourth, the abolishment of Intercity 1 eliminated unproductive time spent on rest breaks, comfort stops, vehicle maintenance, and special instructions, in the opinion of the Employer.

The Employer contends that it complied with the parties' agreement when abolishing Intercity 1. According to the Employer, the route was an eight-hour shift; and after the minor adjustment, it was reduced by 119 minutes. The institution of delivery point sequencing in 1996 allegedly eliminated carrier office duties and further reduced minutes from the route. The Employer maintains that there was no reason to consult the grievant due to the fact that the decision to abolish the route was made prior to the inspection, and the grievant allegedly had knowledge of that decision. As the changes just described reduced the route to under eight hours, the Employer contends that it had authority to terminate the assignment pursuant to the M-39 Handbook.

It is also the position of the Employer that it had authority to reassign any remaining duties of Intercity 1 to light and limited duty employees because doing so involved no detriment to the grievant. The Employer contends that the grievant continued to work a full shift and later successfully bid on another route. Hence, the Employer maintains that reassigning the duties to limited and light duty employees did not constitute a contractual violation.

Finally, the Employer categorically rejects the assertion that changes in Intercity 1 were a result of the grievant's union activities. According to the Employer, the route abolishment was due to managerial concerns with efficiency as well as with making legitimate operational changes. According to the Employer, there was no hint of anti-union animus in the changes that affected the grievance. Hence, the Employer concludes that no contractual violation occurred and that the grievance must be dismissed.

## VI. ANALYSIS

### A. Burden of Proof

A common sense approach to allocating the burden of proof and the burden of going forward is helpful in resolving this dispute. A party who is allocated the burden of proof must prove a fact or facts in dispute. As one court observed, the burden of proof can be described as “the duty resting upon one party or the other . . . to establish by a preponderance of the evidence a proposition essential to the maintenance of the action.” (See *Kohlsaas v. Tarkersburg & Marietta Sand Co.*, 226 F. 283, 284 (4<sup>th</sup> Cir. 1920).) The burden of proof must be contrasted with the burden of going forward. The burden of going forward with the evidence may shift from party to party during an arbitration proceeding.

The burden of proof is on the party who asserts the affirmative of an issue, and it remains with that party. But the burden of going forward with the evidence is always on the party against whom a decision would be made if no further evidence were submitted to the arbitrator. A party to whom the burden of going forward with the evidence has shifted cannot overcome its burden merely by asserting that the other party has failed to carry its burden of proof. These evidentiary concepts involve far more than mere legal jargon and provide a helpful analytical framework for sorting out

disputed facts and making objective decisions. In other words, there is a shifting burden of persuasion that must be borne by each party in order to support or justify its claim without regard to who might be said to bear the burden of proof.

Once a party with the burden of proof has done more than merely assert a claim but has gone forward and submitted evidence to establish the validity of a claim, the risk of nonpersuasion shifts to the other party. In some cases, even if a party must prove the universal negative, the obligation to do more than merely assert a claim and to support such a claim with actual evidence remains with the party asserting a violation of its rights. This is not a discipline or discharge case, and the initial responsibility remained with the Union. The “universal negative” argument, however, helps determine the location of the burden of going forward with the evidence. What many decision-makers have concluded is that, if a party initially is faced with proving a universal negative, it will require only slight proof to shift the burden of going forward with the evidence to the other party. (See, e.g., *Giblin v. Dudley Hardware Co.*, 117 Alt. 418 (1922); *Joost v. Craig*, 131 Cal. 540, 63 Pac. 840 (1901).) For example, if a party were required to prove as its initial claim that the other party did not have legitimate reasons of efficiency for making a decision, it would be faced

with proving a negative assertion. In such a circumstance, the burden of going forward with the evidence could be shifted by slight proof because essential evidence to proving the negative would lie within the primary control of the other party.

B. The Right to Make Assignments

Article 3 of the National Agreement is clear about the fact that management possesses an exclusive right to “maintain the efficiency of the operations entrusted to it.” (See Joint Exhibit No. 1, p. 5.) It is for management to direct and assign employees, to maintain efficiency, and to determine the methods and personnel by which operations are to be conducted. Such rights, however, are subject to any restrictions in the rest of the parties’ agreement. Article 19 incorporates by reference the M-39 Handbook as part of the parties’ negotiated agreement. Section 141.113 of the M-39 Handbook requires that management follow definite adjustment procedures.

Procedures set forth in the M-39 Handbook for a minor adjustment emphasize the need for “reasonably current” count and inspection data for the route with the specific carrier. Sections 141.19 and 251 of the M-39 Handbook specify that Forms 1840 and 3999 are to be



used in calculating hours. Consultation with the carrier is required pursuant to Sections 141, 243, 252, and 254. Moreover, notice to the Union is required in Section 141. Additionally, Article 5 of the parties' negotiated agreement imposes notice and conference obligations on the Employer.

The arbitrator received un rebutted testimony that Intercity 1 had not been inspected by the Employer since 1989. Moreover, the carrier was not consulted regarding his hours or the adjustments made to his route prior to September 14, 1995. Such evidence was supported by the inspection data from 1995. It contained no reference to carrier comments. (See Joint Exhibit No. 3, pp. 6-14.) Notice to the Union came in the form of a memorandum given to Shop Steward Joe Shay on September 13, 1995, the day before the adjustment became effective. (See Joint Exhibit No. 3, p. 49.) The evidence went un rebutted.

The arbitrator received no other documentation of earlier inspections except a time sheet used on September 13, 1995 to time the three runs eliminated from Intercity 1. (See Joint Exhibit No. 3, p. 4.) This particular document is not a form referred to in M-39 Handbook procedures. Evidence submitted to the arbitrator failed to support a conclusion that the Employer fully implemented or enforced M-39 adjustment procedures as outlined in its handbook. While the Employer

retained a contractual right to make minor adjustments, the right is subject to procedures referenced in or incorporated by the parties' negotiated agreement. The fact that the M-39 procedures were not followed in this case constituted a violation of the parties' National Agreement.

C. The Right to Abolish an Assignment

Like the right to make adjustments, abolition of an assignment remains within the retained rights of management, subject to the parties' negotiated agreement. Section 243.22 of the M-39 Handbook provides for eliminating routes that require less than eight hours in duration. In the absence of other references to abolishing assignments in the parties' National Agreement, a useful source of guidance is to be found in arbitration decisions on the subject. The parties submitted a profusion of material with respect to the Employer's right to abolish assignments. Most of the Employer's data arose in disputes with another collective bargaining unit. (See Employer's Exhibit Nos. 2, 3, 4, 5, 7, and 8.) Some of the decisions arose under earlier collective bargaining agreements between the parties. At least one of the decisions did not implicate the propriety of procedures used under the M-39 Handbook, as is the case in this dispute. (See Employer's Exhibit No. 10.) Another of the decisions was different from the fact

pattern in this dispute in that it involved inspections prior to the abolishment that showed the existence of routes requiring less than eight hours to perform the work. (See Employer's Exhibit No. 11.) Instructive guidelines found in one of the decisions merit repetition. Arbitrator Gentile stated in March, 2000:

Applying the standards of review to test an abolishment found in the arbitral authority, these are the inquiries:

Do the facts establish management's decision was either arbitrary (without a factual foundation); capricious (without a full consideration of efficiency, reasonable business considerations and not the result of impulsive decision-making); unreasonable (without a fair, realistic and practical balance of the attendant concerns); or discriminatory (affected employees were treated without a reasonable and rational justification for how the abolishment took place).  
(See Employer's Exhibit No. 11, p. 11.)

Evidence submitted to the arbitrator established that the Employer's decision in this case was not consistent with relevant guidelines. When asked if the grievant was working an eight hour day "right after the minor adjustment," Postmaster Joan Durazo testified:

I would assume he was.  
He is an eight hour regular employee.

Inspection data for September 25, 1995 indicated that the grievant's routes required an average of 8.22 hours a day. (See Joint Exhibit No. 3, pp. 6-14.) That evidence stood un rebutted. Additionally, contentions that the

inspection process failed to include auxiliary assistance hours and also that not all runs were performed on certain days remained unrebutted. The arbitrator received sufficient evidence from the Union with regard to these matters to shift the burden of going forward with the evidence to the Employer, and management did not do so. Legitimate questions were also raised about the inspection reports because the inspection runs included a mixture of the original routes and the adjusted routes. It is reasonable to conclude that the Employer did not know the actual duration of Intercity 1 before or after the adjustment. The inability of the Employer accurately to classify Intercity 1 as either above or below eight hours supported a conclusion that M-39 procedures had been violated.

The Employer failed to follow M-39 procedures in this case. This left management with an uncertain evaluation of the routes. Such facts support a conclusion that management acted unreasonably in making a decision to abolish the route without a fair balancing of all relevant concerns as is required by the M-39 procedures. In the absence of relevant data, the Employer could not have fully considered the efficiency of its decision. It is reasonable to conclude that making a decision under such circumstances was arbitrary and capricious.

D. The Unfair Labor Practice Complaint

The Union filed a complaint with the National Labor Relations Board alleging that abolishing Intercity 1 constituted disciplinary action against the grievant due to his union activities and that such discipline violated Sections 8(a)(1) and 8(a)(3) of the National Labor Relations Act. Pursuant to *Collyer Insulated Wire*, the National Labor Relations Board deferred the matter to arbitration on March 20, 1996. NLRB deferral policy requires (1) that an arbitration proceeding be fair and regular; (2) that the Unfair Labor Practice issue which gave rise to the charge be considered and decided by the arbitrator; and (3) that any arbitration award be consonant with purposes and policies of relevant labor legislation. (See *Spielberg Manufacturing Company*, 112 N.L.R.B. 1080 (1955); and *Olin Corporation*, 268 N.L.R.B. 573 (1984).)

The parties submitted evidence in arbitration relevant to resolving the unfair labor practice dispute. By making a change in the grievant's assignment, management modified a condition of his employment. The Union received notice of the minor adjustment the day before the adjustment became effective. (See Joint Exhibit No. 3, p. 49.) A memorandum on an office bulletin board directed to all employees on November 3, 1995 gave notice of the abolition of Intercity 1. (See Joint

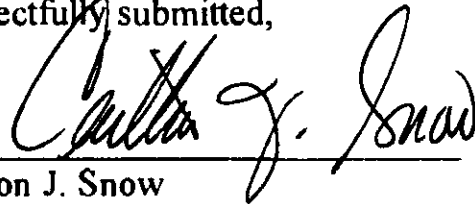
Exhibit No. 2, p. 11.) The abolishment became effective on January 1, 1996, 59 days after the posting. Section 8(b) of the National Labor Relations Act imposes a duty on the parties to bargain collectively and requires that they confer in good faith. Modification of a term or condition requires 60 days of notice, and the Union did not receive reasonable notice in this case.

The Employer also failed to bargain with the Union about the unilateral change in working conditions. No evidence submitted to the arbitrator established that the Employer conferred, consulted, or otherwise discussed with the Union the substantial change in the grievant's working conditions. The failure to bargain was inconsistent with requirements of the National Labor Relations Act. Such conduct was inappropriate in view of the parties' contractual and statutory obligations.

AWARD

Having carefully considered all evidence submitted by the parties concerning this matter, the arbitrator concludes that the Employer violated the parties' collective bargaining agreement by adjusting and abolishing the grievant's assignment to Intercity 1 without following mandated contractual procedures. Since no remedy was explored at the arbitration hearing, the parties shall have 90 days from the date of this report to attempt to fashion an appropriate remedy. Either party may activate the arbitrator's jurisdiction during this time to determine a remedy if negotiations prove to be unproductive. It is so ordered and awarded.

Respectfully submitted,



Carlton J. Snow  
Professor of Law

Date: 11-27-00

**Exhibit 18**

C-23986

**REGULAR ARBITRATION PANEL**

In the Matter of Arbitration	)	
	)	
between	)	Grievance: Class Action
	)	
UNITED STATES POSTAL	)	Post Office: Rialto, California
SERVICE	)	
	)	Case No.: F98N-4F-C 02062648
and	)	3982102C
	)	
NATIONAL ASSOCIATION OF	)	
LETTER CARRIERS	)	

**BEFORE:** Carlton J. Snow, Professor of Law

**APPEARANCES:** For the Postal Service: Mr. Timothy Arntz

For the Union: Mr. Manuel L. Peralta

**PLACE OF HEARING:** Rialto, California

**DATE OF HEARING:** November 15, 2002

**RECEIVED**

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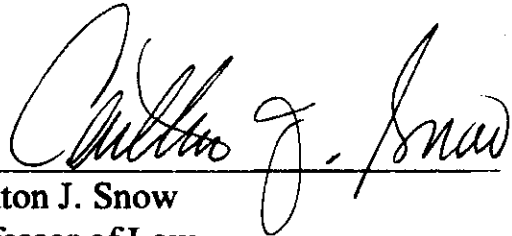
VICE PRESIDENT'S  
OFFICE  
NALC HEADQUARTERS



## AWARD

Having carefully considered all evidence submitted by the parties concerning this matter, the arbitrator concludes the Employer violated the parties' National Agreement when it changed the employees' Start Time in this case. The Employer shall reinstate the original Start Time of 8:15 A.M., unless management can prove compliance with factors in Section 122.11 of the M-39 Handbook. The arbitrator shall retain jurisdiction in this matter for 90 days from the date of the report in order to resolve any problems resulting from the remedy in the award. It is so ordered and awarded.

Respectfully submitted,



Carlton J. Snow  
Professor of Law

Date January 22, 2003

IN THE MATTER OF	)	
ARBITRATION	)	
	)	
BETWEEN	)	
	)	
UNITED STATES POSTAL	)	ANALYSIS AND AWARD
SERVICE	)	
	)	
AND	)	Carlton J. Snow
	)	Arbitrator
	)	
NATIONAL ASSOCIATION OF	)	
LETTER CARRIERS	)	
(Class Action Grievance)	)	
(Case No.: F98N-4F-C 02062648	)	
3982102C	)	

I. INTRODUCTION

This matter came for hearing pursuant to a collective bargaining agreement between the parties effective from 1998-2001. A hearing occurred on November 15, 2002 in a conference room of the postal facility located at 241 West Rialto Avenue in Rialto, California. Mr. Timothy Arntz, Labor Relations Specialist, represented the United States Postal Service. Mr. Manuel L. Peralto, Regional Administrative Assistant, represented the National Association of Letter Carriers.

The hearing proceeded in an orderly manner. There was a full opportunity for the parties to submit evidence, to examine and cross-examine witnesses, and to argue the matter. All witnesses testified under oath as administered by the arbitrator. The arbitrator tape-recorded the proceeding as an extension of his personal notes. The advocates fully and fairly represented their respective parties.

There were no challenges to the substantive or procedural arbitrability of the dispute, and the parties stipulated that the matter properly had been submitted to arbitration. The parties authorized the arbitrator to retain jurisdiction in the matter for 90 days after issuance of a decision, and they submitted the matter on the basis of evidence presented at the hearing as well as oral closing arguments, and the arbitrator officially closed the hearing on November 15, 2002. An ear infection slowed production of a report.

## II. STATEMENT OF THE ISSUE

The issue before the arbitrator is as follows:

Did the Employer violate the parties' National Agreement and/or Local Agreement when it changed the start time from 8:15 A.M. to 8:40 A.M. and, then, to 8:30 A.M.? If so, what is the appropriate remedy?

## III. RELEVANT CONTRACTUAL PROVISIONS

### ARTICLE 3 - MANAGEMENT RIGHTS

The Employer shall have the exclusive right, subject to the provisions of this Agreement and consistent with applicable laws and regulations:

- A. To direct employees of the Employer in the performance of official duties;
- C. To maintain the efficiency of the operations entrusted to it;
- D. To determine the methods, means, and personnel by which such operations are to be conducted;
- F. To take whatever actions may be necessary to carry out its mission in emergency situations, i.e., an unforeseen circumstance or a combination of circumstances which calls for immediate action in a situation which is not expected to be of a recurring nature.

## ARTICLE 19 - HANDBOOKS AND MANUALS

Those parts of all handbooks, manuals and published regulations of the Postal Service, that directly relate to wages, hours or working conditions, as they apply to employees covered by this Agreement, shall contain nothing that conflicts with this Agreement, and shall be continued in effect except that the Employer shall have the right to make changes that are not inconsistent with this Agreement and that are fair, reasonable, and equitable.

### IV. STATEMENT OF FACTS

In this case, the Union challenged the decision of the Employer to change the Start Time of employees. On December 29, 2001, the Employer changed the Start Time of Letter Carriers from 8:15 to 8:40 A.M. Management explained to employees that the time change needed to be made in an effort to increase productivity. In a memorandum to Letter Carriers, the Employer stated that the "case feet per hour" was then 2.9 but that it should be 3.60 feet per hour. (See Joint Exhibit No. 2, p. 17.) The "case feet per hour" is the total caseable mail divided by the minutes used to case the mail. The Employer also cited other productivity goals of reducing sick leave and overtime as a justification for the operational change of the Start Time.

The Union challenged the decision of the Employer to make the time change and cited Section 122.11(b) of the M-39 Handbook. Section 122.11(b) requires the Employer to set work schedules to coincide with the receipt and dispatch of mail. The M-39 Handbook states that:

At least 80% of the carriers' daily mail to be cased should be on or at their cases when they report to work.

On January 12, 2002, the Union requested time card "rings" from December 1, 2001 through January 12, 2002 for all clerks and casual workers at the Annex and "data showing daily mail volume distributed to routes prior to 'begin tour' from January 1, 2001 to December 31, 2001." (See Joint Exhibit No. 2, p. 11.) Management believed that the Information Request was unreasonable and informed the Union that "if we furnish you with this we are going to charge the union for the time it takes us." (See Joint Exhibit No. 2, p. 11.) Approximately 90 days later the Union received some of the requested information.

In February, the Union grieved management's decision to change the Start Time. Steward Farley testified that at least two or three "Step A" meetings took place. As a part of the Union's investigation into the dispute, Steward Farley interviewed the Employer's Step A representative and Officer in Charge, Mr. Elijah Stephens. Mr. Stephens told Mr. Farley

that the first truck arrives at the facility at 5:00 A.M.; the second truck arrives at 6:00 A.M.; and the final truck is expected to arrive at 8:00 A.M. (See Joint Exhibit No. 2, p. 14.)

When asked how management determines that 80% of the mail is at the carrier's case, Mr. Stephens stated that, "We count the mail every day." (See Joint Exhibit No. 2, p. 14.) Mr. Stephens also stated, however, that he did not know the volume of mail for three routes at the center of the conflict. (See Joint Exhibit 2, p. 15.) What Mr. Stephens knew was that, if the trucks were on time, 80% of the caseable mail will be at the carriers' case in a timely fashion. (See Joint Exhibit No. 2, p. 15.) In a 20-day period from December 27, 2001 through January 16, 2002, the 6:00 A.M. truck was late an average of 10 minutes on 13 of the 20 days. For the same time period, the 8:00 A.M. truck was late an average of 21 minutes on 15 days. (See Joint Exhibit No. 2, p. 80.)

According to Shop Steward Farley, the Employer never established when the mail was received at the carriers' cases prior to the allegedly improper time change. Mr. Farley also testified that, prior to the emergence of the grievance, Letter Carriers never had to wait for the mail. Nor did he have knowledge of anyone else who had to wait. When the

parties were unable to resolve their differences, the matter proceeded to arbitration.

V. POSITION OF THE PARTIES

A. The Union

The Union argues that the Employer violated the parties' National Agreement when it changed the Start Time from 8:15 to 8:40 A.M. The Union asserts that the Employer is relying on an internal productivity standard, rather than relying on the M-39 Handbook. The Union contends that the M-39 Handbook requires management to fix schedules so that at least 80% of the mail is in carriers' cases when they report to work. The Union contends that management cannot tell from the Mail Volume Report when 80% of the mail is at the carriers' cases. Hence, the Union concludes that the Employer violated the parties' agreement by making the time change in the absence of an appropriate justification for doing so.



B. The Employer

The Employer argues that it is completely within management's right to alter the Start Time based on the "management rights" provision of the National Agreement. According to the Employer, management changed the Start Time in this case to increase productivity. It is the position of the Employer that the change in starting time was due to low mail volume, dispatch trucks arriving late, and a poor mail flow. The Employer asserts that managers made employees aware of these problems and changed the Start Time in an effort to overcome the productivity deficiencies.

The Employer points out that the time change was pushed forward by 25 minutes and made "out-of-schedule" premium pay inaccessible to employees. Although only a 25 minutes change, it allegedly had a significant impact on the efficiency of the operation and, according to the Employer, "produces better productivity since it is not necessary for the carrier to wait for DPS volume or go to streets and return when DPS is available because of a late truck." See Joint Exhibit No. 2, p. 183.) In view of the positive impact on the efficiency of the operation, the Employer concludes that the changed Start Time did not violate the agreement of the parties and that, therefore, the Employer must prevail in this case.

## VI. ANALYSIS

The Union objected in this case when, on December 29, 2001, the Employer unilaterally changed the Start Time of employees from 8:15 to 8:40 A.M. It is indisputable that the Employer has a right to determine the method, means, and personnel by which operations are to be conducted and also to make reasonable decisions that maintain the efficiency of the operation. Managerial control of work schedules, however, is not totally unfettered or without limitations. The M-39 Handbook specifies that schedules must be fixed to coincide with the receipt and dispatch of mail. Section 122.11(b) of the M-39 Handbook states:

Consider the following factors in establishing schedules:

(b) Fix schedules to coincide with receipt and dispatch of mail. At least 80% of the carriers' daily mail to be cased should be on or at their cases when they report for work. (See Joint Exhibit No. 2, p. 172, emphasis added.)

The instruction is not a suggestion but is stated as an imperative. The Handbook, which pursuant to Article 19 of the labor contract has been incorporated into the parties' collective bargaining agreement, eliminates a manager's unfettered control over Start Times. Start Times remain within management's control but must be exercised after giving due deference to the M-39 Handbook.

The Employer responded to the Union's case by asserting that management made a change in the Start Time to increase productivity and efficiency. An arbitrator is as obliged to follow contractual procedures as is a manager, and the parties' agreement expressly states that a factor a manager must consider in establishing the work schedule at a facility is the fact that 80% of the mail must be present at the carriers' cases when they report to work. The arbitrator did not receive proof from management covering this crucial evidentiary link. The Employer did not establish whether or not 80% of the mail had been delivered to cases at the original Start Time prior to management's changing the work schedule. What the Employer premised its case on was the fact that the 6:00 A.M. and 8:00 A.M. trucks were frequently late, and this fact alone allegedly justified changing the Start Time. (See Joint Exhibit No. 2.)

Part of the evidence used by management to support its decision failed to be persuasive. Management relied, in part, on the fact that the 6:00 A.M. trucks were generally late over a 20 day period from December 27, 2001 to January 16, 2002. But such evidence was far from conclusive in light of the fact that the Letter Carriers' Start Time was normally 8:15 A.M. The on average 15 minute delay of the 6:00 A.M. truck failed to provide sufficient justification for management's decision. It, however, is relevant that the 8:00

A.M. trucks were an average of approximately 20 minutes late over the same 20 day period and were late 15 of the 20 days. (See Joint Exhibit No. 2, p. 80.)

It was reasonable for management to take such a delay into consideration when setting the work schedule, but the time frame considered by management occurred immediately after the holiday season and provided circumstances that logically contributed to the lateness of the trucks. A 20 day test period under such circumstances failed to provide sufficient evidence of a clear pattern of lateness that justified the change. The point is that the lateness of the 8:00 A.M. trucks, without other supportive data, failed to establish that less than 80% of the mail was at the carriers' cases when they arrived for work. The point is that the Union, as the moving party, established a prima facie case that the Employer was not complying with the M-39 Handbook.

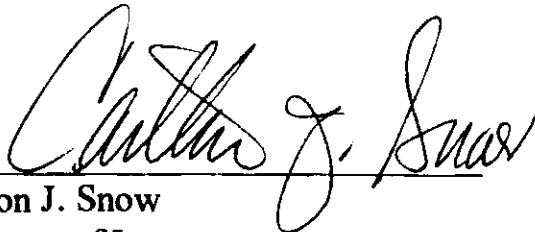
Once the Union made a prima facie case, the burden of going forward with the evidence shifted to the Employer to prove that it complied with the parties' agreement. The Employer elected to present no witnesses at the hearing and offered only a limited explanation to justify the schedule change, namely, to foster productivity. In the absence of evidence, it cannot be concluded that the Employer carried its burden of going forward with the

evidence. Management did not establish that it complied with relevant contractual provisions or that it gave consideration to the amount of mail actually at the carriers' cases at the start of the shift prior to making the schedule change. In order to justify a change in the work schedule, management must show (once the Union presents a prima facie case) it complied with the parties' agreement and considered the factors set forth in Section 122.11 of the M-39 Handbook before changing the Start Time.

## AWARD

Having carefully considered all evidence submitted by the parties concerning this matter, the arbitrator concludes the Employer violated the parties' National Agreement when it changed the employees' Start Time in this case. The Employer shall reinstate the original Start Time of 8:15 A.M., unless management can prove compliance with factors in Section 122.11 of the M-39 Handbook. The arbitrator shall retain jurisdiction in this matter for 90 days from the date of the report in order to resolve any problems resulting from the remedy in the award. It is so ordered and awarded.

Respectfully submitted,



Carlton J. Snow  
Professor of Law

Date January 22, 2003