



What You Don't Know Might Hurt You:

Ten under-the-radar actions from the past year that are shaping our ability to stay safe on the job and negotiate good contracts.

Safety and Health – 5,190. That's how many workers were killed on the job in 2016. Another 50-60,000 lives were lost due to occupational disease.¹ Even with our union's exceptional and relentless work on safety and health, we're not spared: in 2017, more than 30 people were killed in USW-represented workplaces. As our members who have fought these fights know, it's rare for an employer to go out of their way to make improvements. It's almost always a battle. That's why we need the protections that government rules and regulations provide.

1 Taxpayer Dollars Keep Flowing to Law-Breaking Companies – Congress and the President revoked a rule that made sure federal contractors follow the law. Currently, there is no effective system to ensure that taxpayer dollars are not awarded to contractors who violate basic safety and employment laws. A recent rule would have exposed and corrected this problem, however Congress voted to end it and the President signed the repeal into law.²

2 Forty Year Recordkeeping Requirement on Injuries and Illnesses Ended – For decades, employers had to keep five years' worth of injury and illness records or risk being cited; now OSHA will only review six months. This information is very valuable for OSHA investigations and for spotting patterns across industries. A court decision created the need to clarify the five year standard through a new rule. However, due to actions by Congress and the President, the five year requirement has been replaced with only a six month obligation. Employers, OSHA, and workers will find it more difficult to learn from past mistakes.³

3 Electronic Reporting Delayed – An effort to streamline reporting of key records related to worker safety has seen numerous delays, and is now threatened entirely. If employers reported injury and illness records electronically, it would streamline collection and allow the information to be shared more easily among researchers, government agencies, unions, and others who could help identify patterns and hazards in order to prevent additional worker injuries, illnesses, and deaths. Instead, this electronic reporting rule was repeatedly delayed. While the system is now running, an announcement late last year noted the intention to “reconsider, revise, or remove portions of that rule in 2018.”⁴

4 Steelworkers May Lose Beryllium Protections – Shipyard and construction workers may be stripped out of a rule addressing beryllium exposure. That leaves many workers, including the thousands of Steelworkers who make military ships in Newport News, VA, unprotected from the chronic disease and lung cancer sparked by exposure.⁵

What are rules and regulations?

Congress passes bills, the President signs them into law, then the government agency that handles the subject area is tasked with a rule-making process which adds scientific, economic, or industry expertise to a policy. Our union is regularly part of this process, especially when our members' safety and health, rights, or industries are concerned. For some rules*, it can take years – even decades – to become final.

**Rules are also known as regulations.*

¹ AFL-CIO, Death on the Job: The Toll of Neglect, 2018, April 26, 2018 <https://aflcio.org/reports/death-job-toll-neglect-2018>

² Washington Post, Trump Signs Bill that Kills Obama-era Worker Rights Rule, March 27, 2017 https://www.washingtonpost.com/news/powerpost/wp/2017/03/27/trump-signs-bill-that-kills-obama-era-worker-safety-rule/?utm_term=.8757f4dcf6d7

³ Economic Policy Institute (EPI), Why Records Matter to Worker Safety, February 24, 2017 <http://www.epi.org/blog/why-records-matter-to-worker-safety/>

⁴ EPI, OSHA Delays Electronic Injury Recordkeeping Rule, November 22, 2017 <https://www.epi.org/perkins/oseha-delays-electronic-injury-record-reporting-rule/>

5 Companies Come Out On Top; Communities Jeopardized – A key rule that would better prepare communities in the event of a chemical disaster suffers a setback. After a 2013 explosion at a chemical plant in Texas, the EPA overhauled chemical safety standards, requiring companies that utilize large quantities of dangerous chemicals – from oil refineries to paper mills to other manufacturing facilities – to better prepare for accidents. Companies complained and were rewarded with a delay. As an example of the importance, during 2017’s Hurricane Harvey, communities, first responders, and USW members could have benefitted from the additional knowledge required by this rule during recovery efforts.⁵ EPA is now poised to deregulate and strip away all or part of this rule.⁷

Our Fundamental Workers’ Rights – There’s no dispute: workers in unions fare better than our non-union counterparts. In 2016, average union weekly earnings were 25 percent higher than non-union earnings (\$1,004 to \$802).⁸ We’re also more likely to have better benefits, from retirement to health insurance to paid time off, and lower workplace fatality rates.⁹

Nearly every USW member who has sat at a bargaining table can tell you that companies don’t willingly give us gains. CEOs and the companies they command are continually trying to roll back our rights (apparently making 347 times the average worker just isn’t enough!).¹⁰ When attempting to form a new union, workers come up against company-hired union busting firms in 75 percent of campaigns.¹¹ They funnel unlimited sums of money into the political process through anti-union organizations, and make direct contributions to lawmakers with the expectation of getting a return on their money. After decades of bad policies, we’re left with union density of 10.7 percent in the U.S.¹² In the past year, more states became right to work, attacks on public employees’ rights increased, the National Labor Relations Board (NLRB) took a strong pro-corporate turn, and anti-union legislation received more attention at the federal level.

6 Union Busters Get to Hide Again – The billion-dollar union avoidance industry gets a gift: a rule that would have shone light on their activities is now slated for repeal. For decades, companies exploited a loophole that let them get around reporting large amounts of the money they spent on consultants that specialize in undermining workers as they try to form a union. That was corrected with a new rule in early 2016, but efforts by this Administration are underway to repeal it.¹³

7 NLRB Reverses Pro-Worker Gains – The new Trump-appointed General Counsel, along with new corporate-leaning Board Members, are reshaping the agency and delivering blows to workers.¹⁴ The NLRB decides cases on critical issues involving workers, including when and how workers can form unions and what we can lawfully do to improve our working lives.

- **Smaller Groups within Large Workplaces Can No Longer Form Unions –** One of the most consequential changes was a reversal of a 2011 ruling referred to as *Specialty Healthcare* that helped workers form smaller unions within a single larger workplace. Here’s an example of how it worked: nursing home assistants could hold a union election without having to include all the dietary aides, maintenance workers, and other employees who don’t share similar job duties, wages, and issues with management. Employers hated it, and they got their way. With this ruling overturned, organizing workers at large facilities is now a much more difficult task.¹⁵

⁵ USW Press Release, USW Blasts Proposal to Cancel Beryllium Protections for Shipyard and Construction Workers, June 28, 2017 <https://www.usw.org/news/media-center/releases/2017/usw-blasts-proposal-to-cancel-beryllium-protections-for-shipyard-and-construction-workers>

⁶ Politico, Houston Left with a Toxic Mess as Trump Relaxes Rules <https://www.politico.com/story/2017/08/31/toxic-hurricane-harvey-chemicals-242237>

⁷ EPA List of Deregulatory Actions <https://www.epa.gov/laws-regulations/epa-deregulatory-actions>

⁸ Bureau of Labor Statistics, Union Members – 2017, January 19, 2018 <https://www.bls.gov/news.release/union2.nr0.htm>

⁹ Bureau of Labor Statistics, Employee Benefits in the United States – March 2017, July 21, 2017 <https://www.bls.gov/news.release/pdf/ebs2.pdf> and AFL-CIO, Death on the Job: The Toll of Neglect, 2017, April 26, 2017

<https://aficio.org/reports/death-job-toll-neglect-2017>

¹⁰ AFL-CIO Executive Pay Watch for 2016, <https://aficio.org/paywatch>

¹¹ Jobs with Justice, Unionbusters 101, March 13, 2017 <http://www.jwj.org/unionbusters-101>

¹² Bureau of Labor Statistics, Union Members – 2016, January 26, 2017 <https://www.bls.gov/news.release/union2.nr0.htm>

¹³ EPI, The Persuader Rule Would Have Shined a Spotlight on the Union-Avoidance Industry—but the Trump Administration is Rescinding it, August 9, 2017 <http://www.epi.org/press/the-persuader-rule-would-have-shined-a-spotlight-on-the-union-avoidance-industry-but-the-trump-administration-is-rescinding-it/>

¹⁴ BNA, Labor Board Officials Have ‘Grave’ Concerns About Restructuring, January 25, 2018 <https://bna.com/news/bna.com/daily-labor-report/labor-board-officials-have-grave-concerns-about-restructuring>

¹⁵ EPI, By Overturning Specialty Healthcare, the NLRB Has Made It Harder for Workers to Organize, December 18, 2017 <https://www.epi.org/blog/by-overturning-specialty-healthcare-the-nlrb-has-made-it-harder-for-workers-to-organize/>

- **Employers Can Dodge Responsibility Again** – The NLRB previously ruled that companies can't get around their obligations to their workers by outsourcing management duties to subcontractors or franchisees. This made it easier for workers to file complaints against big companies, like McDonald's, who claim they aren't the employer of the people at their franchise restaurants. The NLRB ruling also held promise for workers in these situations to organize collectively, rather than location by location. The board flipped this "joint employer" standard, giving corporations the upper hand again. However, there is another turn in story: In February 2018, the NLRB was forced to reverse itself after it was determined that one of the board members had a conflict of interest.¹⁶ The U.S. House took additional action to end this standard.¹⁷
- **Decisions Favor Companies** – NLRB decisions impact single facilities as well. Here's a recent example: Last July, the NLRB issued a complaint against Honeywell alleging that they had violated federal labor law when they locked out their employees. The employees refused to agree to Honeywell's proposal to unilaterally change the terms of their health care coverage and other things during the life of their contract. A trial was scheduled to begin this spring, and the company was potentially on the hook for \$20 million for wronging their workers. The new NLRB General Counsel, Peter Robb, reversed the decision, denying the workers their day in court.¹⁸

8 Anti-Union Bills See Movement – While not enacted into law yet, there are dangerous bills that got more attention in 2017 than ever before. That includes the so-called "Employee Rights Act" (H.R. 2723/S. 1874).¹⁹ If this were law, when workers took a vote to organize, anyone who didn't vote would count as a no. Non-members could vote on a contract or whether or not to go on strike. Every time there was a change in your membership of 50 percent, a new election would be required to keep your union (employers could manipulate this through hires and layoffs). The portion of dues that goes towards legislative work would no longer be included as part of normal dues. Instead, locals would have to go member to member each year to collect. That's designed to limit our voice in the legislative process.

Retirement Security – With threatened pensions, insufficient 401ks, sluggish wage growth, and rising costs of living impacting far too many workers' retirement plans, we should be looking for ways to increase security in our golden years, not undermine it.

9 Questionable Financial Advice – A rule that would prevent conflicts of interest with investment advice is on the chopping block. With fewer USW members in defined benefit pension plans, seeking out financial advice is more common. When turning to a professional, we should expect that they'll give us information that's in our best interest and untainted by conflicts of interest, but that's not always the case. Far too often clients are steered into investments that provide lower rates of return for the client, but higher commissions for the advisor. A recent rule would help fix this problem. After financial industry opposition, the rule is delayed with the intent to ultimately end it.²⁰

10 Jeopardizing our Nursing Home Care – A recent rule that gives extra recourse to wronged residents is being replaced. While a number of our members work in nursing home facilities, quite a few more of us will likely end up there in our later years. We've all got a stake in making sure our quality of care is high and the companies are held to a high standard. Under a recent change in rules, nursing home residents could more easily sue when negligence or abuse took place. This is in jeopardy as the Administration is now seeking to replace that rule, siding with for-profit nursing home companies and making it almost impossible for nursing home residents to get their day in court.²¹

¹⁶ Bloomberg, NLRB Throws Out Ruling in Conflict-of-Interest Controversy February 26, 2018 <https://www.bloomberg.com/news/articles/2018-02-26/nlr-throws-out-ruling-in-conflict-of-interest-controversy>

¹⁷ EPI, NLRB Overturns Joint Employer Standard, December 14, 2017 <https://www.epi.org/perkins/nlr-returns-overturns-joint-employer-standard/>

¹⁸ UAW Statement on NLRB General Counsel's Decision to Withdraw Complaint Against Honeywell, January 5, 2018 <https://uaw.org/statement-uaw-nlr-general-counsels-decision-withdraw-complaint-honeywell/>

¹⁹ Congress.gov, bill text <https://www.congress.gov/bills/115th-congress/house-bill/2723/text>

²⁰ EPI, Financial Advisors Win and Working People Lose \$10.9 Billion, as Full Implementation of the Fiduciary Rule is Delayed, November 27, 2017 <http://www.epi.org/press/financial-advisers-win-full-implementation-fiduciary-rule-delayed/>

²¹ L.A. Times, Trump Wants to Deny Nursing Home Residents and their Families the Right to Sue, June 13, 2017 <http://www.latimes.com/business/lazarus/la-fi-lazarus-nursing-home-arbitration-20170613-story.html>

We're Fighting Back & Advancing Our Agenda

Our battles have moved to the courts. For instance, our union is leading the way with community partners in a legal challenge over the chemical disaster rule delay. Those kinds of actions are paying dividends. We've been fighting for full enforcement of a rule on silica in the courts given that exposure is linked to lung cancer, silicosis, and more. This new rule – projected to save the lives of 600 workers annually – was repeatedly delayed. In December, we got the great news that we won the legal challenge and there shouldn't be ANY MORE delays.²²

We're engaging – and winning – at the state level. In just the past year, we prevented state-level roll-backs of public employee rights, thwarted some efforts to enact right to work laws, and in Missouri, where right to work recently was passed into law, our members helped lead the charge in getting the issue put on the ballot for voters to decide this fall. In New York and Texas, we improved Buy American standards. In California, Steelworkers helped enact the first Buy Clean Act to prevent polluting companies from getting a competitive edge over our manufacturers.

Our voice in Washington, D.C. is experienced and powerful. Our Washington, D.C.-based legislative staff are regularly joined by our union's officers to testify on critical issues on Capitol Hill, lobby Members of Congress, advocate for our concerns within the Trump Administration, coordinate with employers on common concerns, and make sure our union is at the table for any issue impacting our members. Our union reinforces this work by amplifying our message through the media and social networks.

A critical part of the mix is Rapid Response. Through our union's non-partisan education and action program, each and every Steelworker has an opportunity to engage in the legislative process and government decision-making.

Moving Forward

As 2018 unfolds, we're expecting more rule-reversals and delays that could impact USW members. The Administration publicizes a "regulatory agenda" of their priorities, and the latest list is significant. For example, local unions will need to be on the lookout for the Department of Labor's Office of Labor-Management Standards' expected rule, which will likely add even more scrutiny to union financial reporting.

We'll also be watching for the return of issues we worked on in 2017, such as legislation to roll back overtime protections. A Supreme Court decision is expected over whether or not public employees covered by a union contract have to pay their share of the financial costs to support the contract. Given the composition of the court, a favorable outcome is not expected. At the same time, the budget process will produce winners and losers depending on how Congress allocates money and for what priorities. The money matters: consider that OSHA only has enough funding for inspectors to inspect workplaces once every 159 years!²³

Our agenda is rounded out with trade issues, a potential debate over federal infrastructure spending, actions on retirement security, and much, much more. Stay tuned for ways you can be involved, and know that our union will be there every time our members' interests are on the line.

²² EPI, OSHA's Silica Rule Upheld by D.C. Circuit Court, December 22, 2017 <https://www.epi.org/perkins/oshas-silica-rule-upheld-by-d-c-court-of-appeals/>

²³ Confined Spaces, OSHA is Bleeding: Shrinking Government and Killing Workers, December 31, 2017 <http://jordanbarab.com/confinedspace/2017/12/31/shrinking-government-killing-workers/>