

# NECA



Oregon Pacific-Cascade

# IBEW

Local Union #659

Joint Safety Committee  
Oregon Pacific-Cascade Chapter, NECA  
IBEW Local 659  
Tuesday December 14, 2021  
Meeting MINUTES

**Rollcall: meeting called to order-In Person Video-Conferencing available**  
**Approval of Previous Meeting Minutes**

### **Communications**

Local 48 JSC- injury report-reviewed

Year-End-Review- OSHA 300 logs, Injury review-updated copy of form sent to members

**New Business:** Monthly Safety Training and Information Packets (distributed)

EAP- initial assessment visits increased to 6 from 3

Controlling contractor reminders for ‘seasonal help’

Anti-harassment training required for supervision by 4/22 Lance to arrange TTT

Employee engagement challenges- buy-in by field, management support for initiatives

Verify training cards- Forklift, Rigging and Signal Peron

Ergonomic Tools

Infrastructure Bill

Combating Complacency

Redesigning Work for Health- Wellness vs. Redesign

Soft Skills- Hybrid Workplace

### **OSHA Injury/Incidents**

Pushing a wire cart, bodily reaction, back strain, Modified Duty

Wire make-up, cut hand, stitches, recordable

Stripping wire, laceration, stitches-recordable

Glove caught-in cordless drill, struck-by, recordable

Falling cables, bundle cut loose, NEAR MISS

Opening shipping boxes, cut hand, stitches, recordable

**Next Meeting – January 11, 2022**

**Adjournment**

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January 11, 2022

Elias Campbell- GEW  
Senior Safety Consultant

# NECA



# IBEW

Oregon Pacific-Cascade

Joint Safety Committee  
Oregon Pacific-Cascade Chapter, NECA  
IBEW Local 659  
Tuesday January 11, 2022  
Meeting AGENDA

Local Union #659

**Rollcall: meeting called to order** In-person and videoconferencing  
**Approval of Previous Meeting Minutes**

## **1.0 Communications**

- 1.1 Year-End-Review- OSHA 300 logs, Injury review
- 1.2 OSHA Reporting and Recordkeeping checklist
- 1.3 Supreme Court to hear arguments on OSHA ETS issued 12/22/21

## **2.0 New Business: Monthly Safety Training and Information Packets (distributed)**

- 2.1 Safety Packet Review
- 2.2 EC Magazine
  - 2.2.1 Confined Space hazards-review program
  - 2.2.2 Storm Restoration- reminders for ‘inside’ wiremen
- 2.3 Safety & Health Magazine
  - 2.3.1 Reducing slips, trips and falls
  - 2.3.2 Lone worker safety
- 2.4 EHS Today
  - 2.4.1 Written safety plans- review internal documents
  - 2.4.2 “You Can’t Go Home Again”- Thomas Wolfe

## **3.0 OSHA Injury/Incidents**

## **4.0 Class Schedule**

- 4.1 Posted online

*All NECA Contractors* are reminded that work related accidents and incidents should be reported via the Accident/ Incident report to the NECA office for consideration by the committee. If you are in need of a copy of the report, contact the Chapter office.

**IMPORTANT REMINDER:** The variance granted to NECA/IBEW by OR-OSHA requires participation by both Labor and Management Representatives at the Joint Innovative Safety Committee. For the Committee to be viable and provide assistance to Contractors and IBEW Members we need to have consistent attendance of all committee members.

**Next Meeting: February 8, 2022**



## Safety Meeting Packet

**January 2022**

**2021 LABOR HOURS RECAP**  
**ALL SIGNATORY CONTRACTORS**

Local#	Contract Type	Annual Total	Average Hrs/Mo	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
280	Inside	1,194,857	11	108,623	82,595	93,391	100,648	113,117	116,512	109,213	125,311	124,186	109,618	139,404	80,862	
280	Inside Appr.	396,237	11	36,022	27,402	29,644	32,778	36,549	37,192	36,618	42,200	41,436	36,026	43,547	32,845	
280	MAI	0	11	0	0	0	0	0	0	0	0	0	0	0	0	
280	Material	121,808	11	11,073	10,283	9,566	9,875	9,398	10,971	9,784	12,787	14,234	10,430	13,806	10,674	
280	Residential	73,113	11	6,647	4,681	5,546	6,563	7,284	6,259	6,573	7,492	6,954	7,485	7,574	6,702	
280	Resi. Appr.	53,649	11	4,877	2,774	3,627	4,182	4,892	4,735	5,198	5,560	5,287	5,546	6,494	5,354	
280	S & C	189,406	11	17,219	14,409	16,486	17,317	18,920	16,101	16,976	20,013	17,973	17,829	18,170	15,212	
280	S & C Appr.	91,102	11	8,282	5,989	6,463	7,770	8,991	7,882	8,284	9,487	8,826	9,520	9,660	8,230	
280	Support Tech/MOU	108,727	11	9,884	7,374	9,693	9,520	11,167	9,824	9,854	12,073	9,321	8,975	11,787	9,139	
<b>TOTAL 280</b>		<b>2,228,899</b>	<b>99</b>	<b>202,627</b>	<b>155,507</b>	<b>174,416</b>	<b>188,653</b>	<b>210,318</b>	<b>209,476</b>	<b>202,500</b>	<b>234,923</b>	<b>228,217</b>	<b>205,429</b>	<b>250,442</b>	<b>169,018</b>	<b>0</b>
<b>Total NECA</b>				<b>129,255</b>	<b>148,536</b>	<b>156,181</b>	<b>178,222</b>	<b>170,755</b>	<b>164,485</b>	<b>188,927</b>	<b>183,809</b>	<b>173,624</b>	<b>215,507</b>	<b>146,078</b>	<b>0</b>	
<b>% NECA</b>				<b>83.12%</b>	<b>85.16%</b>	<b>82.79%</b>	<b>84.74%</b>	<b>81.52%</b>	<b>81.23%</b>	<b>80.42%</b>	<b>80.54%</b>	<b>84.52%</b>	<b>86.05%</b>	<b>86.43%</b>	<b>#DIV/0!</b>	

Local#	Contract Type	Annual Total	Average Hrs/Mo	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
659	Inside	237,288	11	21,572	14,402	17,416	19,899	25,953	24,333	22,532	25,452	21,409	20,536	24,454	20,902	
659	Inside Appr.	113,510	11	10,319	6,631	7,413	8,788	10,921	10,322	10,122	12,403	11,810	11,237	12,923	10,940	
659	Material	4,976	11	452	326	315	506	286	339	402	594	327	342	757	782	
659	Residential	7,706	11	701	529	604	571	662	480	534	896	870	717	995	848	
659	Resi. Appr.	3,893	11	354	192	292	388	404	255	305	369	292	344	567	485	
659	S & C	6,701	11	609	377	388	574	547	548	454	665	563	763	938	884	
659	S & C Appr.	608	11	55	31	141	4	6	3	0	0	7	12	205	199	
<b>Total 659</b>		<b>374,682</b>	<b>77</b>	<b>34,062</b>	<b>22,488</b>	<b>26,569</b>	<b>30,730</b>	<b>38,779</b>	<b>36,280</b>	<b>34,349</b>	<b>40,379</b>	<b>35,278</b>	<b>33,951</b>	<b>40,839</b>	<b>35,040</b>	<b>0</b>
<b>Total NECA</b>				<b>16,260</b>	<b>18,904</b>	<b>21,099</b>	<b>29,410</b>	<b>26,543</b>	<b>23,292</b>	<b>30,519</b>	<b>25,376</b>	<b>24,065</b>	<b>30,546</b>	<b>25,720</b>	<b>0</b>	
<b>% NECA</b>				<b>72%</b>	<b>71%</b>	<b>69%</b>	<b>76%</b>	<b>73%</b>	<b>68%</b>	<b>76%</b>	<b>72%</b>	<b>71%</b>	<b>75%</b>	<b>73%</b>	<b>#DIV/0!</b>	

Local#	Contract Type	Annual Total	Average Hrs/Mo	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
932	Inside	94,719	11	8,611	7,377	8,779	10,566	10,940	8,774	9,169	6,793	8,041	7,561	8,618	8,101	
932	Inside Appr.	42,942	11	3,904	3,196	4,050	4,393	4,592	4,322	4,559	3,408	3,605	3,259	3,588	3,970	
932	Residential	3,836	11	349	204	321	457	595	467	265	402	301	425	248	151	
932	Resi. Appr.	1,035	11	94	123	145	0	0	0	143	173	140	0	176	135	
932	S & C	4,816	11	438	248	276	556	406	433	587	402	548	331	464	565	
932	S & C Appr.	260	11	24	49	37	50	19	0	0	11	0	0	42	52	
<b>Total 932</b>		<b>147,608</b>	<b>66</b>	<b>13,419</b>	<b>11,197</b>	<b>13,608</b>	<b>16,022</b>	<b>16,552</b>	<b>13,996</b>	<b>14,723</b>	<b>11,189</b>	<b>12,635</b>	<b>11,576</b>	<b>13,136</b>	<b>12,974</b>	<b>0</b>
<b>Total NECA</b>				<b>10,106</b>	<b>12,371</b>	<b>14,448</b>	<b>14,911</b>	<b>12,511</b>	<b>13,148</b>	<b>11,051</b>	<b>11,099</b>	<b>9,928</b>	<b>11,187</b>	<b>11,251</b>	<b>0</b>	
<b>% NECA</b>				<b>90%</b>	<b>91%</b>	<b>90%</b>	<b>90%</b>	<b>89%</b>	<b>89%</b>	<b>99%</b>	<b>88%</b>	<b>86%</b>	<b>85%</b>	<b>87%</b>	<b>#DIV/0!</b>	
<b>Grand Total</b>		<b>2,751,189</b>	<b>250,108</b>	<b>189,192</b>	<b>214,593</b>	<b>235,405</b>	<b>265,649</b>	<b>259,752</b>	<b>251,572</b>	<b>286,491</b>	<b>276,130</b>	<b>250,956</b>	<b>304,417</b>	<b>217,032</b>	<b>0</b>	
<b>Total NECA</b>		<b>2,259,124</b>	<b>11</b>	<b>205,375</b>	<b>155,621</b>	<b>179,811</b>	<b>191,728</b>	<b>222,543</b>	<b>209,809</b>	<b>200,925</b>	<b>230,497</b>	<b>220,284</b>	<b>207,617</b>	<b>257,240</b>	<b>#####</b>	<b>0</b>

## 2021 LABOR HOURS RECAP ALL SIGNATORY CONTRACTORS

% NECA	82%	82%	82%	84%	81%	84%	81%	80%	80%	80%	83%	85%	84%	#DIV/0!
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**2021 LABOR HOURS RECAP**  
**NECA MEMBERS**

Local#	Contract Type	Annual Total	Average Hrs/Mo	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
280	Inside	985,768	11	89,615	68,719	79,269	83,261	95,582	94,542	87,129	97,212	98,280	91,949	119,817	70,008	
280	Inside Appr.	300,554	11	27,323	19,971	22,732	24,344	28,177	26,492	26,926	32,339	30,660	28,434	34,367	26,112	
280	MAI	0	11	0	0	0	0	0	0	0	0	0	0	0	0	
280	Material	107,213	11	9,747	9,029	8,340	8,326	8,475	9,736	8,582	10,254	12,257	9,630	12,751	9,833	
280	Residential	45,577	11	4,143	2,769	3,611	3,792	4,443	3,811	4,157	4,870	4,275	4,647	4,999	4,203	
280	Resi. Appr.	40,674	11	3,698	2,079	2,906	3,110	3,854	3,678	4,014	4,209	3,802	4,067	4,929	4,026	
280	S & C	177,707	11	16,155	13,492	15,682	16,253	17,730	14,956	15,710	18,691	16,573	16,688	17,352	14,580	
280	S & C Appr.	89,191	11	8,108	5,822	6,303	7,575	8,794	7,716	8,113	9,311	8,641	9,234	9,505	8,177	
280	Support Tech/MOU	108,695	11	9,881	7,374	9,693	9,520	11,167	9,824	9,854	12,041	9,321	8,975	11,787	9,139	
<b>Total 280</b>		<b>1,855,379</b>	<b>99</b>	<b>168,671</b>	<b>129,255</b>	<b>148,536</b>	<b>156,181</b>	<b>178,222</b>	<b>170,755</b>	<b>164,485</b>	<b>188,927</b>	<b>183,809</b>	<b>173,624</b>	<b>215,507</b>	<b>146,078</b>	<b>0</b>

Local#	Contract Type	Annual Total	Average Hrs/Mo	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
659	Inside	177,683	11	16,153	10,690	12,739	14,033	20,482	18,441	15,971	19,974	15,868	15,033	18,852	15,600	
659	Inside Appr.	81,087	11	7,372	4,847	5,320	6,095	8,181	7,293	6,505	9,185	8,474	7,814	9,418	7,955	
659	Material	2,514	11	229	75	10	122	0	117	219	431	149	173	603	615	
659	Residential	2,657	11	242	284	226	191	174	141	143	264	315	270	345	304	
659	Resi. Appr.	547	11	50	0	80	80	20	0	0	0	0	0	204	163	
659	S & C	6,638	11	603	333	388	574	547	548	454	665	563	763	919	884	
659	S & C Appr.	608	11	55	31	141	4	6	3	0	0	7	12	205	199	
<b>Total 659</b>		<b>271,734</b>	<b>77</b>	<b>24,703</b>	<b>16,260</b>	<b>18,904</b>	<b>21,099</b>	<b>29,410</b>	<b>26,543</b>	<b>23,292</b>	<b>30,519</b>	<b>25,376</b>	<b>24,065</b>	<b>30,546</b>	<b>25,720</b>	<b>0</b>

Local#	Contract Type	Annual Total	Average Hrs/Mo	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
932	Inside	88,034	11	8,003	6,812	8,226	9,873	10,116	8,086	8,495	7,810	7,309	6,752	7,510	7,045	
932	Inside Appr.	39,106	11	3,555	2,997	3,832	4,134	4,373	3,992	4,086	2,834	3,253	2,845	3,171	3,589	
932	MAI	0	11	0	0	0	0	0	0	0	0	0	0	0	0	
932	Residential	0	11	0	0	0	0	0	0	0	0	0	0	0	0	
932	Resi. Appr.	0	11	0	0	0	0	0	0	0	0	0	0	0	0	
932	S & C	4,611	11	419	248	276	391	403	433	567	396	537	331	464	565	
932	S & C Appr.	260	11	24	49	37	50	19	0	0	11	0	0	42	52	
<b>Total 932</b>		<b>132,011</b>	<b>77</b>	<b>12,001</b>	<b>10,106</b>	<b>12,371</b>	<b>14,448</b>	<b>14,911</b>	<b>12,511</b>	<b>13,148</b>	<b>11,051</b>	<b>11,099</b>	<b>9,928</b>	<b>11,187</b>	<b>11,251</b>	<b>0</b>

Grand Total	2,259,124	205,375	155,621	179,811	191,728	222,543	209,809	200,925	230,497	220,284	207,617	257,240	183,049	0
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**IBEW LABOR HOUR RECAP, LAST 5 YEARS**  
**ALL SIGNATORIES**

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
<b>2017</b>	<b>124,362</b>	<b>150,693</b>	<b>171,896</b>	<b>141,612</b>	<b>152,580</b>	<b>176,209</b>	<b>132,408</b>	<b>180,192</b>	<b>171,516</b>	<b>172,152</b>	<b>180,357</b>	<b>179,521</b>	<b>1,933,498</b>
<b>2018</b>	<b>129,958</b>	<b>152,277</b>	<b>187,788</b>	<b>175,909</b>	<b>199,302</b>	<b>194,584</b>	<b>197,419</b>	<b>246,866</b>	<b>230,127</b>	<b>238,937</b>	<b>241,813</b>	<b>261,195</b>	<b>2,456,175</b>
<b>2019</b>	<b>235,064</b>	<b>267,789</b>	<b>302,365</b>	<b>274,692</b>	<b>291,848</b>	<b>269,365</b>	<b>243,405</b>	<b>312,956</b>	<b>299,388</b>	<b>305,249</b>	<b>332,724</b>	<b>289,681</b>	<b>3,424,525</b>
<b>2020</b>	<b>269,064</b>	<b>305,744</b>	<b>303,666</b>	<b>204,430</b>	<b>211,800</b>	<b>216,251</b>	<b>245,543</b>	<b>256,035</b>	<b>196,445</b>	<b>272,974</b>	<b>231,380</b>	<b>249,688</b>	<b>2,963,020</b>
<b>2021</b>	<b>189,192</b>	<b>214,593</b>	<b>235,405</b>	<b>265,649</b>	<b>259,752</b>	<b>251,572</b>	<b>286,491</b>	<b>276,130</b>	<b>250,956</b>	<b>304,417</b>	<b>217,032</b>	<b>0</b>	<b>2,751,189</b>
<b>Grand Total</b>	<b>947,640</b>	<b>1,091,096</b>	<b>1,201,120</b>	<b>1,062,292</b>	<b>1,115,282</b>	<b>1,107,981</b>	<b>1,105,266</b>	<b>1,272,179</b>	<b>1,148,432</b>	<b>1,293,729</b>	<b>1,203,306</b>	<b>980,085</b>	<b>13,528,407</b>

**IBEW LABOR HOUR RECAP, LAST 5 YEARS**  
**ALL SIGNATORY CONTRACTORS - LOCAL 659**

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
<b>2017</b>	<b>14,658</b>	<b>21,350</b>	<b>26,115</b>	<b>21,955</b>	<b>23,267</b>	<b>28,077</b>	<b>17,996</b>	<b>26,285</b>	<b>31,534</b>	<b>32,069</b>	<b>36,108</b>	<b>37,772</b>	<b>267,940</b>
<b>2018</b>	<b>21,344</b>	<b>24,542</b>	<b>30,838</b>	<b>24,723</b>	<b>25,527</b>	<b>31,562</b>	<b>27,500</b>	<b>37,546</b>	<b>28,153</b>	<b>26,958</b>	<b>31,873</b>	<b>27,854</b>	<b>317,186</b>
<b>2019</b>	<b>21,197</b>	<b>25,620</b>	<b>29,205</b>	<b>25,630</b>	<b>33,395</b>	<b>27,182</b>	<b>25,193</b>	<b>35,508</b>	<b>41,951</b>	<b>54,575</b>	<b>72,625</b>	<b>52,457</b>	<b>338,420</b>
<b>2020</b>	<b>43,270</b>	<b>54,711</b>	<b>48,644</b>	<b>28,261</b>	<b>31,390</b>	<b>25,282</b>	<b>29,461</b>	<b>26,442</b>	<b>25,695</b>	<b>33,549</b>	<b>28,151</b>	<b>31,985</b>	<b>444,538</b>
<b>2021</b>	<b>22,488</b>	<b>26,569</b>	<b>30,730</b>	<b>38,779</b>	<b>36,280</b>	<b>34,349</b>	<b>40,379</b>	<b>35,278</b>	<b>33,951</b>	<b>40,839</b>	<b>35,040</b>	<b>0</b>	<b>374,682</b>
<b>Grand Total</b>	<b>122,957</b>	<b>152,792</b>	<b>165,532</b>	<b>139,348</b>	<b>149,859</b>	<b>146,452</b>	<b>140,529</b>	<b>161,059</b>	<b>161,284</b>	<b>187,990</b>	<b>203,797</b>	<b>150,068</b>	<b>1,742,766</b>

**IBEW LABOR HOUR RECAP, LAST 5 YEARS**  
**NECA MEMBERS**

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
<b>2017</b>	<b>100,470</b>	<b>125,233</b>	<b>141,871</b>	<b>118,878</b>	<b>127,241</b>	<b>148,638</b>	<b>108,231</b>	<b>148,241</b>	<b>132,386</b>	<b>126,237</b>	<b>127,950</b>	<b>132,070</b>	<b>1,823,025</b>
<b>2018</b>	<b>100,801</b>	<b>121,674</b>	<b>149,612</b>	<b>140,924</b>	<b>160,511</b>	<b>152,229</b>	<b>156,427</b>	<b>200,133</b>	<b>190,473</b>	<b>197,958</b>	<b>202,072</b>	<b>222,483</b>	<b>1,537,446</b>
<b>2019</b>	<b>199,200</b>	<b>231,668</b>	<b>259,726</b>	<b>232,744</b>	<b>244,112</b>	<b>226,383</b>	<b>200,634</b>	<b>261,084</b>	<b>237,306</b>	<b>253,322</b>	<b>247,628</b>	<b>235,455</b>	<b>1,995,297</b>
<b>2020</b>	<b>224,793</b>	<b>255,228</b>	<b>246,899</b>	<b>167,739</b>	<b>169,124</b>	<b>172,186</b>	<b>203,008</b>	<b>209,747</b>	<b>162,195</b>	<b>231,451</b>	<b>191,467</b>	<b>211,496</b>	<b>2,829,262</b>
<b>2021</b>	<b>155,621</b>	<b>179,811</b>	<b>191,728</b>	<b>222,543</b>	<b>209,809</b>	<b>200,925</b>	<b>230,497</b>	<b>220,284</b>	<b>207,617</b>	<b>257,240</b>	<b>183,049</b>	<b>0</b>	<b>2,259,124</b>
<b>Grand Total</b>	<b>780,885</b>	<b>913,614</b>	<b>989,836</b>	<b>882,828</b>	<b>910,797</b>	<b>900,361</b>	<b>898,797</b>	<b>1,039,489</b>	<b>929,977</b>	<b>1,066,208</b>	<b>952,166</b>	<b>801,504</b>	<b>10,444,154</b>

**IBEW LABOR HOUR RECAP, LAST 5 YEARS**  
**NECA CONTRACTORS - LOCAL 659**

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
<b>2017</b>	<b>10,754</b>	<b>16,802</b>	<b>21,157</b>	<b>17,244</b>	<b>17,899</b>	<b>22,023</b>	<b>13,135</b>	<b>19,344</b>	<b>22,082</b>	<b>20,875</b>	<b>23,069</b>	<b>25,458</b>	<b>210,001</b>
<b>2018</b>	<b>15,797</b>	<b>19,177</b>	<b>23,859</b>	<b>19,105</b>	<b>19,663</b>	<b>21,676</b>	<b>19,398</b>	<b>26,348</b>	<b>20,439</b>	<b>20,201</b>	<b>24,060</b>	<b>20,689</b>	<b>229,842</b>
<b>2019</b>	<b>14,628</b>	<b>17,749</b>	<b>20,192</b>	<b>16,638</b>	<b>23,467</b>	<b>18,332</b>	<b>17,202</b>	<b>23,763</b>	<b>19,442</b>	<b>22,313</b>	<b>26,129</b>	<b>26,555</b>	<b>250,412</b>
<b>2020</b>	<b>31,948</b>	<b>36,439</b>	<b>28,175</b>	<b>18,266</b>	<b>22,281</b>	<b>17,473</b>	<b>21,071</b>	<b>18,823</b>	<b>17,933</b>	<b>24,790</b>	<b>19,767</b>	<b>23,209</b>	<b>246,410</b>
<b>2021</b>	<b>16,260</b>	<b>18,904</b>	<b>21,099</b>	<b>29,410</b>	<b>26,543</b>	<b>23,292</b>	<b>30,519</b>	<b>25,376</b>	<b>24,065</b>	<b>30,546</b>	<b>25,720</b>	<b>0</b>	<b>271,734</b>
<b>Grand Total</b>	<b>89,387</b>	<b>109,071</b>	<b>114,482</b>	<b>100,663</b>	<b>109,853</b>	<b>102,796</b>	<b>101,325</b>	<b>113,654</b>	<b>103,961</b>	<b>118,725</b>	<b>118,745</b>	<b>95,911</b>	<b>1,208,399</b>



OREGON PACIFIC-CASCADE CHAPTER

## **Safety Training Topics**

February 2022

Working in Cold Weather

Hypothermia

Frostbite: Signs & Symptoms

First Aid: Frostbite

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# SAFETY TRAINING TOPIC

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## Working in Cold Weather

December marks the official start of the winter season, which means you are far more likely to be exposed to extreme cold temperatures. It is imperative that you understand the risks associated with prolonged exposure to cold weather and how to best protect yourself from the dangers that come with it.

If you work in cold or cool temperatures there is an increased chance that you will experience trench foot, hypothermia and frostbite. You should be aware that people who are in poor physical condition or have medical conditions such as hypertension, hypothyroidism and diabetes are at greater risk when working in cold weather.

Before conducting outdoor work in cold temperatures you should be trained in the safety precautions that go along with it. When work needs to be done in these conditions, plan to do so at the warmest part of the day. It can also be helpful to work in pairs. This will better allow you to monitor each other for symptoms of cold stress.

When working in the cold you need to stay dry. Moisture or dampness caused by sweat, snow or rain can increase the rate of heat loss from your body. You should carry an extra set of dry clothes when working in winter conditions; avoid tight clothing because it reduces blood flow to your extremities and can result in more rapid heat loss.

OSHA recommends wearing multiple layers to provide better insulation and to help adjust to changing temperatures. Typically, an inner layer of wool, silk or synthetic (polypropylene) to keep moisture away from your body; a middle layer of wool or synthetic to provide insulation even when wet; and an outer wind and rain protection layer that allows some ventilation to prevent overheating. You might also consider wearing a knit hat along with insulated water proof boots and gloves. Remember if working with electricity Arc-Rated (AR) clothing may be needed. Some of the materials mentioned above may not be appropriate. Your supervisor should check with a supplier for cold weather garments and undergarments that provide dual protection.

In addition to taking these precautions, your employer should provide a warm dry place for you to take breaks from freezing temperatures, as you can experience exhaustion and fatigue in cold weather at a more rapid rate than usual. Drinking warm beverages and sports drinks, avoiding caffeine and alcohol also help. Finally, you should consider eating warm high calorie foods such as pasta, prior to working in cold environments.

### REVIEW AND DISCUSSION

- When should work be scheduled if necessary in cold environments?
- Why should you avoid wearing tight clothing when working in cold weather?
- What are some types of clothing that OSHA recommends wearing in cold weather?

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## SAFETY TRAINING TOPIC

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### Hypothermia

When working outdoors in cold or cool conditions, you are at risk for hypothermia. What is hypothermia? Hypothermia occurs when your body heat is lost faster than it can be replaced. Then your body temperature drops below 95°F. It most commonly occurs when exposed to extreme cold temperatures. However it can also occur in warmer conditions if you are chilled from rain, sweat or submersed in cold water.

Here are some indicators or symptoms that you or a colleague might be hypothermic. Mild symptoms include increased alertness, shivering and stomping of your feet to help generate heat. As your body temperature drops your condition will worsen and shivering will stop.

More moderate and severe symptoms may include dilated pupils, confusion, disorientation, impaired motor skills, slowed breathing and heart rate, difficulty standing and even unconsciousness. If you experience or observe any of these symptoms, it is important to get help immediately. You could die from hypothermia, if you don't seek immediate medical attention!

While waiting for help you should move yourself or your colleague to a warm, dry area. Then take off any wet clothes, replacing them with dry ones. The body should also be covered with layers of blankets, leaving a vapor barrier to help retain body heat. This can be done with garbage bags or tarps. However be careful to never cover the face.

If emergency responders are more than 30 minutes away, drink or offer warm sweet drinks to help increase body temperature. Never try to give a drink to an unconscious person. You may also place warm bottles or hot packs in armpits, sides of chest and /or groin areas.

In the event a hypothermia victim is not breathing or has no pulse, you may attempt to administer cardiopulmonary resuscitation (CPR) if you are comfortable and trained to do so.

#### REVIEW AND DISCUSSION

- What is hypothermia?
- What are some moderate to severe symptoms of hypothermia?
- Why is it important to leave a vapor barrier when warming up a hypothermia victim?
- When is it ok to give a drink to an unconscious person?

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## SAFETY TRAINING TOPIC

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### Frostbite: Signs & Symptoms

Frostbite is another ailment that you may encounter when working in cold weather. It is an injury that happens when your skin and underlying tissues freeze. Typically the colder the temperature, the shorter the length time it takes for frostbite to occur. It usually affects your fingers, toes, nose, ears, cheeks and chin.

You are most vulnerable to frostbite when your bare skin is exposed to cold, windy weather. However it can also be caused by direct contact with ice, freezing metals or very cold liquids.

The first stage of frostbite is known as frostnip. This is the mildest form of frostbite. At this stage your skin may turn pale or red and feels very cold to the touch. It may also result in prickling and numbness. Once your skin warms up, you may feel pain and tingling. However you won't experience permanent damage.

The second stage of frostbite occurs with more prolonged exposure to cold. When this occurs your skin may remain soft, but ice crystals can form in the tissue. According to the Mayo Clinic, your skin may begin to feel warm — a sign of serious skin involvement. If you treat frostbite with rewarming at this stage, the surface of your skin may appear mottled, blue or purple. And you may notice stinging, burning and swelling. A fluid-filled blister may appear 24 to 36 hours after rewarming the skin.

In severe cases you can experience numbness, pain or discomfort in the affected area. Your joints and muscles may not work at this point. Once the skin is re-warmed the area might turn black and hard as the tissue dies. This can result in amputation.

You may be a greater risk for experiencing frostbite if you have a history of substance or tobacco use, poor blood flow, diabetes, mental illness or previous frostbite or cold injury. Additionally higher altitudes, exhaustion and dehydration can accelerate the onset of frostbite.

If you experience any form of frostbite, seek medical attention. All stages require some type of treatment.

#### REVIEW AND DISCUSSION

- What part of the body does frostbite usually affect?
- What causes frostbite?
- What is the mildest form of frostbite?
- What are some factors that can put you at greater risk of experiencing frostbite?

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# SAFETY TRAINING TOPIC

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## First Aid: Frostbite

If you experience frostbite, you need to seek prompt medical attention. If your skin is turning hard or black or you have lost feeling in the affected area call 9-1-1 immediately.

Whether you are afflicted with a severe or mild case of frostbite, the first thing that you need to do is restore warmth to the skin. Until you can see a doctor, you should go to a warm, dry area and remove all wet clothing. However do not attempt to re-warm skin unless you can keep it warm. Re-exposing warm frostbitten areas to cold air can cause worse damage.

When re-warming the skin do not use direct heat from heaters, fireplaces or heating pads. You may use warm, NOT HOT, water to help do so. If no water is available you can attempt to breathe on the area or hold it close to the skin. Never rub the area or break any blisters that may have formed. Unless absolutely necessary, do not attempt to walk on feet or toes that have frostbite.

Once your skin is warm again, you should bandage the area. You can do so by applying loose, dry and sterile dressing. If the frostbite has occurred on your fingers or toes, use gauze or clean cotton balls between each to keep them separated.

After receiving medical attention, your next courses of action will vary on a case-by-case basis. Some cases require being in the hospital for an extended time. Other times you may be offered medication for pain or even intravenous fluids if you are dehydrated. More often than not you will also be given a tetanus shot.

You should also return to the doctor if you exhibit fever, new symptoms, increased pain, swelling, redness or discharge in the area that was frostbitten. Once you have experienced frostbite you may encounter the following complications:

- Increased sensitivity to cold
- Increased risk of developing frostbite again
- Long-term numbness in the affected area
- Changes in the cartilage between the joints (frostbite arthritis)
- Infection, gangrene or amputation

### REVIEW AND DISCUSSION

- How should you re-warm areas afflicted with frostbite?
- When should you return to a health care provider after being treated for frostbite?

# Safety

COMPLIANCE ALERT™

Get more online:

- Training Shops
- Safety Checklists
- Scenario Responses



[www.SafetyComplianceAlert.com](http://www.SafetyComplianceAlert.com)

January 3, 2022

## WHAT'S ONLINE

If you haven't been to our website recently, here's exclusive online content you've been missing:

[www.SafetyComplianceAlert.com](http://www.SafetyComplianceAlert.com)



### Training Shop

PPE



### Checklist

Carbon monoxide



Be sure to add our address [sca@safetycompliancealert.com](mailto:sca@safetycompliancealert.com) to your safe senders list to receive our safety updates – and keep your company in the know.

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Citation result of other employer's workers?

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Getting workers to speak up about safety

### 6 Safety Regs Update

Lead poisoning suit complicated by comp exclusivity provision

### 8 Answers to Safety Questions

OSHA answers tough questions about its vaccination rule

# Tragic incident reveals why you should update your JSA now

## ■ Old, undefined term leads to worker's death

**H**ave you reviewed your job safety analyses (JSA) recently? If not, consider doing it ASAP.

Why? Failing to catch outdated references in your JSAs could lead to tragedy, as a new National Transportation Safety Board (NTSB) investigation report demonstrates.

JSAs are important in helping workers identify and mitigate hazards for a specific task, but if they reference outdated terms, they could cause confusion for workers, resulting in injury or even death.

On April 24, 2018, a maintenance crew for Amtrak was servicing the

center track of a three-track station in Bowie, MD.

## 2 trains approach

Three watchmen were employed to perform train approach warnings following federal railroad regulations that required horns to sound the alarm to prevent workers from having to look for visual cues of danger.

But this was a busy train station, and at one point, two trains approached from different directions.

One watchman had his attention drawn to an incoming train near the curve opposite his position.

(Please see JSA updates ... on Page 2)

## DRUG ABUSE

# NSC: Employers must address workplace overdoses

**D**rug overdose deaths topped 100,000 during the pandemic, leading the National Safety Council (NSC) to turn this statistic into an "aggressive wake-up call" to motivate employers to take action for the health and safety of their workers.

The NSC identified the employer's role as a universal gap in addressing misuse of drugs, with 75% of employers being directly impacted, according to surveys conducted by the organization.

Centers for Disease Control and Prevention provisional data showed drug overdose deaths exceeded 100,000 – an average of 235 lives per day – between April 2020 and April 2021.

Drug overdoses have been viewed in the U.S. as a "tragic but unavoidable reality," the NSC states,

but that isn't the case and lives can be saved.

## Resources

Of the 75% of employers directly impacted by drug overdose deaths, only 17% feel very confident they can address the problem effectively.

For the rest, NSC developed an employer toolkit and an eLearning course to help safety pros recognize and respond to workplace impairment.

The training covers:

- the importance of recognizing and responding to impairment
- supervisor responsibilities
- common causes of impairment
- signs and symptoms of impairment
- prevention, and
- laws and regulations.

**Info:** [nsc.org/safety-training/workplace/impairment-training](http://nsc.org/safety-training/workplace/impairment-training)

## RETALIATION

### \$24K paid to driver with safety concerns

A Houston-based mobile crane rental company must pay a former employee almost \$24,000 in back wages, interest and damages after allegedly firing them for refusing to drive unsafely and ignore federal regulations on commercial driving time.

OSHA found the company, Crane Masters Inc., violated the Surface Transportation Act by retaliating against the employee in June 2020.

The employee refused orders to exceed the speed limit. They also worked 19 hours the day before and couldn't get required time off before returning to work, making it unsafe for them to drive, according to a Department of Labor news release.

#### 'Shouldn't be put at risk for profit'

Following an investigation, OSHA ordered the company to pay the driver almost \$14,000 in back wages, interest and compensatory damages along with \$10,000 in punitive damages.

"Commercial truck drivers,

mechanics and other workers are critical to our nation's transportation infrastructure and our economy, but they should never be forced to put themselves or others at risk because of an employer's concern for profit, or fear of retaliation for exercising their legal rights," OSHA Regional Administrator Eric Harbin said in the news release.

#### JSA updates ...

(continued from Page 1)

He couldn't hear another train approaching him from behind, nor could he hear warnings from the other watchmen because the sounds of his own horn and the noise from the maintenance work drowned out everything else.

The train attempted to slow down and sounded its horn, but the watchman didn't hear it, and the train struck him at 98 mph, killing him instantly.

#### Undefined and outdated

Before work started that day, the watchmen and crew had a safety meeting covering the JSA performed for the job, and they all indicated they were aware of the hazards.

However, the JSA mentions the job as being in a "hot spot," a term Amtrak used to identify locations where additional on-track safety is required due to line-of-sight issues, work zone noise levels and obstructions.

The problem was Amtrak dropped all training on hot spots from its safety program in 2014 and all references to hot spots in its safety manual in 2017.

Further, the JSA failed to define the term or offer any additional guidance.

So the watchmen and maintenance crew didn't realize the JSA was telling them to take extra precautions on a job that was more hazardous than normal.

Amtrak has since reintroduced the term hot spot in its safety program and manual.

## SHARPEN YOUR JUDGMENT

This feature provides a framework for decision making that helps keep you and your company out of trouble. It describes a recent legal conflict and lets you judge the outcome.

### ■ CITATION RESULT OF OTHER EMPLOYER'S WORKERS?

Safety Manager Pete Travers was feeling sad.

A longtime co-worker and friend just retired, and Pete hated to see him go, despite being happy for him.

"I know how you feel," Attorney John Jenkins said. "But can you tell me more about this OSHA citation?"

#### City worker filed complaint

"One of our crews was replacing a manhole on a city street," Pete said.

"They had to dig a trench around the manhole and the pipe it led into, so the foreman, Dave Kingsly, tested the soil and decided to use timber shoring since the soil was unstable," Pete explained.

"Sounds good so far," John said.

"Yeah, he did what he was supposed to do," Pete said. "But then a city utilities crew showed up and had to shut down work briefly while they took care of a nearby gas line."

"According to Dave, the supervisor for the utilities crew told him our employees were exposed to trenching hazards as they installed the timber shoring," Pete explained. "Dave thinks he reported us to OSHA."

"Did he have reason to?" John asked.

"From what I understand, every required precaution was taken," Pete said. "If someone was in the trench, it could have been another contractor. There were others involved in the project."

"If that's the case, then we can fight this," John said.

Pete's company fought the citation. Did it win?

■ Make your decision, then please turn to Page 6 for the ruling.

## Safety COMPLIANCE ALERT

EDITOR-IN-CHIEF: MERRIELL MOYER  
MMOYER@PBP.COM

MANAGING EDITOR: FRED HOSIER  
PRODUCTION EDITOR: JEN ERB  
EDITORIAL DIRECTOR: CURT BROWN

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## PANDEMIC

### COVID-19 impacts 2020 injury, illness data

#### ■ STATS SHOW DRAMATIC EFFECT PANDEMIC HAD ON SAFETY

New Bureau of Labor Statistics (BLS) data reveal nonfatal workplace injuries and illnesses decreased in 2020, but the numbers for more severe cases involving days away from work increased.

There were 2.7 million nonfatal workplace injuries during 2020, which is down from the 2.8 million seen in 2019, resulting in a 5.7% decrease.

COVID-19 played a role in this, of course, "impacting workplace injuries and illnesses in a variety of ways, both positively and negatively," according to a National Safety Council news release.

#### Impact of pandemic

The BLS report reveals there were fewer workplace injuries and illnesses, but more severe cases from more illnesses due to the coronavirus.

Out of the cases involving days away from work, 32% were categorized as other diseases due to viruses not elsewhere classified, including reported COVID-19 cases.

## LAWSUITS

### Amazon settles with CA over COVID-19 allegations

Amazon reached a settlement with California over claims the company concealed the numbers of COVID-19 cases at facilities within the state from workers and local health officials.

The state accused Amazon of violating right-to-know laws regarding the coronavirus requiring companies to keep workers informed about the spread and prevention of COVID-19 at their facilities.

California's Attorney General Rob Bonta said Amazon kept tens of thousands of warehouse workers and state agencies in the dark, leaving them unable to effectively track the spread of COVID-19, according to *Reuters*.

Amazon agreed to notify its

In fact, total reported illness cases "more than quadrupled" due to a whopping 4,000% increase in employer-reported respiratory illness cases.

There were 10,800 such illnesses in 2019. In 2020 there were 428,700.

#### Age not a factor

According to the NSC, before 2020, injury and illness trends involving days away from work by age group showed a clear increase in such cases for workers 55 and older.

But in 2020, all age groups saw an increase due to 390,020 COVID-19 cases, which represented 33% of all cases involving days away from work.

The BLS data also points to a shift in women experiencing "slightly more injury and illness involving days away from work than men."

Women were represented twice as frequently as men in the illness category, which includes COVID-19. Men came in at 108,080 cases while women had 276,190.

That occurred for the first time ever in 2020.

## TRENDS TO WATCH

Watch what's happening in various states. Some actions indicate trends.

#### ■ SAFETY REVIEW URGED AFTER 4 ELECTROCUTIONS

With four electrocutions in a five-month span in 2021 and a nationwide one-year increase of 3.75% in those fatalities in 2019, OSHA is urging employers in Kansas and Missouri to emphasize electrical safety.

OSHA is currently investigating four electrocutions that occurred in Kansas and Missouri between May and October of 2021, including:

- an Oct. 4 incident that saw a 40-year-old Missouri electrical contractor killed while replacing light fixtures
- the death of a 22-year-old Missouri worker who was killed Sept. 23 while cleaning a pig barn with a pressure washer
- a 41-year-old Kansas contractor doing heating and air conditioning work on July 13, and
- the death of an electrical contractor who was climbing a pole in Lawrence, Kansas.

#### ■ TRAVELING EMPLOYEE DOCTRINE ADOPTED

The Pennsylvania Supreme Court recently adopted the "traveling employee doctrine," which allows workers' compensation benefits for employees injured during work-related travel.

In *Peters v. Workers' Compensation Appeals Board*, the employee was a traveling salesman who spent much of his time in the field.

He was injured in a crash while returning home from a work-related event and filed a workers' compensation claim, which was initially denied.

The state Supreme Court hadn't directly covered the traveling employee doctrine in the past, so in its ruling it formally adopted the doctrine before remanding the case to a lower court for more fact finding.

## Roundup of most recent OSHA citations

Go to [www.SafetyComplianceAlert.com/fines](http://www.SafetyComplianceAlert.com/fines) for more OSHA fines and injury settlements.

### Fined following manager's death by engulfment

A Wisconsin grain facility was cited by OSHA after the engulfment death of a manager in a corn silo.

The manager was last seen clearing corn debris from the silo. Employees called 911 when they couldn't find him at the silo and after he didn't show up for a regularly scheduled meeting or answer his phone.

After nine hours of searching, emergency services recovered the body of the manager, who had been engulfed in the silo.

**Fine:** \$676,808

**Company:** Didion Milling, Cambria, WI

**Business:** Flour milling

#### Reasons for fine:

*Four willful violations for failure to:*

- ensure silo's mechanical equipment was deenergized during employee entry when such operations would pose hazards from grain movement
- prohibit employees from being on moving grain when attempting to clear bottom discharge of silos
- ensure observers were stationed outside silos during entry operations
- prevent employees from entering silos where buildup of grain along sides presented engulfment hazards

*10 serious violations, including failure to:*

- issue permits to enter silos for cleaning and inspection activities
- prevent employees from standing in locations inside silos that could result in engulfment
- provide equipment for rescue operations specifically suited for silos being entered
- train employees on specific methods to safely perform silo cleaning tasks

### Manufacturer fined \$136K for multiple hazards

A Georgia pharmaceuticals company was cited by OSHA for exposing its workers to more than

a dozen hazards at its chemical manufacturing facility.

Inspectors issued multiple serious citations and a repeat citation to the company for the hazards found in the facility.

The inspection was conducted under OSHA's Regional Emphasis Program for Powered Industrial Trucks.

**Fine:** \$136,816 (\$93,122 for one citation, \$43,694 for another)

**Company:** HPPE LLC, Columbus, GA

**Business:** Pharmaceutical preparation manufacturing

#### Reasons for fine:

*One repeat violation for failure to:*

- provide employees with information and training on hazardous chemicals in their work area

*21 serious violations, including failure to:*

- develop and implement written permit space entry program
- use powered industrial trucks rated for use in atmospheres that could become hazardous
- provide employment free from recognized struck-by hazards likely to cause death or serious physical harm

### 2 dead from COVID, 2 hospitalized, 30 infected

OSHA cited a New Jersey pharmaceutical manufacturer for failing to protect workers from COVID-19, leading to two deaths, two hospitalizations and 30 coronavirus infections.

Inspectors, who had been notified about the illnesses by the company, found a failure to ensure physical distancing and face mask use in common areas.

**Fine:** \$13,653

**Company:** Avantor Fluid Handling LLC, Eatontown, NJ

**Business:** Fluid power valve and hose fitting manufacturing

#### Reasons for fine:

*One serious violation for failure to:*

- provide employment free from recognized COVID-19 hazards that could cause death or serious physical harm

### WORKERS' COMP DECISIONS

#### Can worker with frostbite, depression collect benefits?

An airline worker got frostbite and lost the use of her hands while de-icing planes. Can she collect permanent total disability benefits?

**What happened:** The worker was de-icing planes in cold weather and had already lost feeling in her fingers when some of the de-icing fluid leaked into her gloves. Her fingers were frostbitten, and she lost use of her hands in most situations. She also claimed the injury led to severe depression.

**Company's reaction:** We'll provide temporary benefits for your fingers, but that's it since you have clearance to return to work.

**Decision:** She couldn't collect. The court found medical evidence supported the fact she could return to work and that her depression was related to other stress in her life, not the injury.

**Cite:** *Drahozal v. Envoy Air*, IA Court of Appeals, No. 20-0027, 4/28/21.

#### Fell over barrier she could've avoided: Benefits?

An administrative assistant tripped and fell over a chain barrier she could've avoided. Can she collect benefits?

**What happened:** Before the start of her shift, the assistant walked to another office to turn in her timecard and came across a chain barrier along the way. She fell and injured her right elbow while attempting to step over it.

**Company's reaction:** You weren't working when this happened.

**Decision:** She couldn't collect. The court found she was off duty at the time and that she could've avoided the barrier altogether.

**Cite:** *Purcell v. IL Workers' Comp Commission*, IL Court of Appeals, No. 4-20-0359WC, 4/27/21.

# WHAT'S WORKED FOR OTHER COMPANIES

REAL PROBLEMS, REAL SOLUTIONS

## Getting workers to speak up about safety

We had a location that was going well with safety.

Their stats were great! But then they started tanking. We didn't know what was causing this.

So we went to the facility and gathered people from all departments for a meeting.

It was important for employees to tell us themselves what was going wrong. But that's often difficult.

To get good feedback, especially when it might be negative, you have to make people feel safe enough to give that feedback.

### What happens in Vegas ...

For that meeting, we invoked Las Vegas rules: What happens in Vegas stays in Vegas.

A document was drawn up that stated no individual employee would be named after the meeting when we spoke to management about their concerns.

Everyone signed the paper.

It turns out, the employees were doing a good job at reporting safety and other types of problems.

But the maintenance department was only fixing things that were related to production.

In a couple of departments where the work areas were particularly hot, fans had broken. People were trying to do their jobs, but they were uncomfortable and distracted.

This turned out to be a pattern: Because of production expectations, certain things didn't get fixed.

We took this back to management.

When management responded, it was a huge message to the workforce: They do care about us. They are listening to us.

We made it safe for the information to be passed along upstream by not connecting particular employees to it.

The final piece: Management communicated back to employees, saying, "This is what we heard you say, and this is what we did about it."

Closing the feedback loop was a very important part.

Now workers are more present –

they are less distracted.

And when workers are more present, there are fewer injuries.

*(Based on a presentation by Sharon Kemerer, President, The Kemerer Group, Deerfield, IL, at the ASSP's September 2021 conference)*

## Ensuring wfh isn't a pain in the neck, or back

When work-from-home (wfh) started at the beginning of the pandemic, many employees assumed it was temporary.

That meant, if they had ergonomic problems with their wfh set-up, they didn't complain much.

Now we're having more complaints, injuries and workers' comp claims.

How do you support ergonomics when you aren't in the same place as the employee?

Just as you would do in the office, the goal is for employees to have neutral postures.

A lot of people are working on dining room tables and other furniture not meant for office use.

Some may think there's a catch-all solution: Get a sit-stand adjustable desk. But the reality is that most employees won't have access to one.

Here are some steps to take to alleviate these problems:

- If they're using a laptop, make sure they have a keyboard, mouse and monitor
- Make sure they have a good desk chair
- Encourage use of alternate work surfaces such as card tables, that will help them work at a better height
- Have them use stands if their laptop is their primary screen
- Suggest they use a standing-height counter, and
- Encourage them to build movement into their days.

*(Based on a presentation by Jeremy Wilzbacher, Sr. Consultant, Aon, Lander, WY, at ASSP 2021)*

## TRAINING TIPS

### Reporting woes? Tell them co-workers could get hurt

As a safety pro, you want employees to feel free to report injuries and hazards.

Some employees have no problem with this, while others either forget or feel uncomfortable making such reports.

OSHA requires employers to remind employees of their rights to report injuries and unsafe working conditions, but sometimes even that isn't enough to get some employees to open up.

Something that could help is to point out that failing to report an injury or hazard could lead to another employee getting injured or killed.

This might help a normally reluctant employee report a hazard or injury since they may now see it as looking out for their co-workers.

### Make sure workers are aware of chemical hazards

Workers need to know about the hazardous chemicals they're exposed to and be provided with adequate protection against them.

That's whether those chemicals are immediately hazardous or have longer lasting effects that are a danger to health and wellbeing.

For example, OSHA recently cited a Connecticut aircraft parts manufacturer accused of failing to provide adequate protection against employee exposure to hexavalent chromium and cadmium – both known carcinogens.

Exposure to the toxic substances occurred during electroplating, mixing and preparing, and painting and paint removal processes on small aircraft parts.

One serious violation involved failing to train employees on the hazards posed by these chemicals.

### COURT DECISION

## Lead poisoning suit complicated by comp exclusivity provision

Workers' compensation acts in most states bar employees from suing their employers over work-related injuries and illnesses, but there are exceptions.

A recent case decided by the Utah Supreme Court demonstrates just how complicated exclusivity lawsuits can get, with the court finding it needed clarification on aspects of the lawsuit before it could move forward.

### Unsafe levels of lead

Layne Kay worked in a variety of roles at Barnes Bullets, a bullet manufacturer based in Mona, UT.

For many years, a small portion of Barnes' bullets were made with scrap lead that was cut down into small pieces and then melted in an unsophisticated melting pot.

Between November 2012 and May 2013, Barnes purchased over 40,000 pounds of scrap lead, and Kay was assigned to melt the bulk of it.

In 2013, Barnes discovered its process produced unsafe levels of lead.

### Poisoning leads to disability

At this point, Kay began to suffer from respiratory distress, tremors, chronic fatigue and a host of other ailments.

He was diagnosed with lead poisoning that left him permanently disabled and prevented him from performing even unskilled jobs.

Kay sued Barnes in April 2015, but the lawsuit was stayed while he pursued a workers' compensation claim, which led to a \$337,500 award.

Kay then pursued the lawsuit, which Barnes attempted to have dismissed under the exclusivity provision.

But Kay argued the provision didn't apply because the company didn't comply with safety regulations and intentionally poisoned him.

The Supreme Court remanded the case to a lower court to determine if it should fall under the Workers' Comp Act or the Occupational Disease Act.

Since the intentional-injury exception was never applied to an occupational disease claim, the Supreme Court declined to weigh in without that determination.

after a fatal incident.

The fine follows an investigation into the death of a worker struck and killed by a machine's barrier door.

OSHA claims the company allowed employees to bypass guard mechanisms in the door that prevented it from closing on them and that a malfunction in the door's optic control existed before the fatality.

Audits conducted by a third-party consultant identified specific machine guarding and lockout/tagout program deficiencies and provided recommendations that the company failed to fully implement.

## Crane boom falls on highway, kills 2 in car

OSHA cited a Texas contractor who was installing supports for I-10 near Beaumont when the crane boom collapsed and killed two people passing by in a car below.

The contractor is accused of failing to assemble the crane boom properly.

Inspectors found the operator failed to determine the correct weight of the load, which caused the incorrectly assembled boom to buckle and fall.

## Fatal machine incident leads to \$1.7M fine

An Ohio aluminum parts manufacturer with a history of safety violations is facing a \$1.7 million fine

### SHARPEN YOUR JUDGMENT – THE DECISION

(see case on Page 2)

Pete's company lost when a judge found there was plenty of evidence its employees were working in an unsafe trench.

OSHA claimed the company knew employees were working in an unprotected trench, using photos it was given by the city utilities supervisor as evidence.

The company argued there was no way to tell that the employees in the photos were its employees since no faces could be seen.

However, testimony from the city utilities supervisor, who had worked on projects with the company foreman – actually the company owner in the real case – before, convinced the judge that the foreman was aware it was his crew that was in the trench.

Further, documentation of conditions recorded on the worksite that day indicated there were no other contractors on site, so the judge upheld the citation.

### ■ ANALYSIS: YOU NEVER KNOW WHO'S WATCHING

Safety pros know procedures and regulations are important to make sure everyone goes home safe and sound at the end of the work day.

However, some workers, supervisors and CEOs see those same things as nothing more than nuisances.

Sometimes it's helpful to let them know that, just as in this case, someone outside the company might be looking out for the safety of others and report unsafe acts to OSHA.

**Cite:** *Secretary of Labor v. Petrongolo Contractors, Occupational Safety & Health Review Commission, No. 20-0786, 9/28/21. Dramatized for effect.*

# Government notices on workplace safety

Here's SCA's digest of key notices that appeared recently in the Federal Register (FR) or on OSHA's website concerning workplace safety issues. For the FR listings and other related links, go to SafetyComplianceAlert.com/category/federal-activities.

### TRANSPORTATION

A previously authorized Trump administration rule allowing liquid natural gas (LNG) to be transported by rail is set to be temporarily suspended under new Pipeline and Hazardous Materials Safety Administration (PHMSA) rulemaking.

PHMSA published a Notice of Proposed Rulemaking (NPRM) Nov. 8 for a temporary suspension of transport of LNG by rail in certain DOT113 specification rail tank cars.

The agency is specifically proposing to suspend the Trump administration's final rule while it conducts "a thorough evaluation" of the regulatory framework for rail transportation of LNG and determine if any modifications are necessary, according to law firm Hogan Lovells.

This NPRM came about due to increased uncertainty about safety and environmental risks of rail transportation of LNG under the Hazardous Materials Regulations.

PHMSA cites several information gaps – mostly concerning testing and evaluation of public and environment risk – as the reason for the temporary suspension.

The agency found this wouldn't have an adverse impact on serious reliance on transportation of LNG by rail since no transportation of LNG via rail tank car has occurred since the Trump administration's final rule went into effect August 2020.

### SETTLEMENT

Smithfield Packaged Meats, one of the largest pork processors in the U.S., agreed to assemble a team of experts to develop an infectious disease preparedness plan following an OSHA citation for a COVID-19 outbreak at

its Sioux Falls, SD, facility.

The company will bring together in-house and third-party experts to develop a plan that will be implemented at all of its U.S. processing facilities.

Smithfield entered into a settlement agreement with OSHA following a March 2020 inspection that led to a citation under the General Duty Clause for failing to protect workers from COVID-19 hazards at its Sioux Falls plant.

The plant closed for 25 days in an effort to contain the COVID-19 outbreak, but "by June 16, 2020, 1,294 Smithfield workers had tested positive for COVID-19 and four died."

Smithfield must also pay \$13,494.

### WHISTLEBLOWER

OSHA filed suit Nov. 17 against PACCAR Inc., doing business as Peterbilt Motor Co., to force the company to reinstate an employee who was allegedly fired for raising COVID-19 concerns at a Texas manufacturing plant.

The agency is asking the U.S. District Court for the Eastern District of Texas to order the company to reinstate the employee to his former position; pay back wages, interest, compensatory and punitive damages; and expunge his personnel record.

In March 2020, the employee told a supervisor of his concerns regarding exposure to COVID-19 at Peterbilt's Denton, TX, facility.

The employee was told the company planned to clean work spaces and continue work as usual.

When the company found out the employee expressed his concerns publicly about the company's response, Peterbilt fired the employee, according to a Department of Labor news release.

OSHA investigated the incident and found the employee was engaged in protected activity by raising his concerns about the coronavirus and that the company violated federal whistleblower protections, leading to the lawsuit.

### WHERE TO GET HELP

#### ■ YOU CAN REGISTER NOW FOR ASSP SAFETYFOCUS 2022

Registration is open for the American Society of Safety Professionals (ASSP) SafetyFOCUS 2022.

The event takes place in Phoenix from Feb. 21 to March 4 featuring online and in-person components.

This is ASSP's second-largest annual event, offering more than 65 occupational safety and health courses on a broad range of topics, according to a news release from the organization.

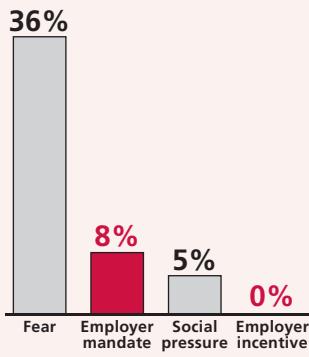
Areas of focus include:

- business and leadership skills
- certification preparation
- fall protection, and
- safety management systems.

**Info:** [safetyfocus.assp.org/main-event/](http://safetyfocus.assp.org/main-event/)

### What safety officers told us

What were the main reasons people got vaccinated for COVID-19?



Source: Kaiser Family Foundation nationwide poll of 1,519 people

Of those motivated by fear, 39% cited the Delta variant as their main concern, while 38% were concerned over reports of local hospitals and ICUs filling with COVID-19 cases.

Each issue of SCA contains an exclusive survey to give safety professionals insight into what their peers nationwide are thinking and doing.

# ANSWERS TO TOUGH SAFETY QUESTIONS

Safety pros like you face questions every day on how to keep your employees safe. On this page, you'll get answers to real-life questions and situations you could encounter in either a "Management Scenario" or "Experts' Solutions."

## EXPERTS' SOLUTIONS

### OSHA answers tough questions about its COVID-19 vaccination emergency rule

**Q:** How does state law prohibiting employer COVID-19 vaccine mandates affect the federal emergency temporary standard (ETS)?

**A:** OSHA's COVID-19 vaccination ETS preempts any rules set forth by states or subdivisions of states.

The agency "intends for the ETS to preempt and invalidate any state or local requirements that ban or limit an employer's authority to require vaccination, face covering or testing," according to OSHA.

In short, once OSHA promulgates a federal standard addressing an occupational safety and health issue, a state can no longer regulate that issue except with the federal agency's approval and the authority of a federally-approved State Plan.

#### Do vaccine policies have to address mask, testing?

**Q:** Must mandatory COVID-19 vaccination policies address face coverings and testing requirements?

**A:** That depends on whether any employees are required to comply with the testing/face covering provisions required for an exemption or accommodation.

If there are any employees with an exemption or accommodation, then the employer will have to develop procedures for two sets of employees in the written policy, OSHA states.

The procedures applicable

to employees who are not fully vaccinated must include COVID-19 testing and face covering use.

#### How are multi-employer sites and temp workers counted?

**Q:** If I'm a general contractor in charge of a multi-employer worksite, or if I use temporary workers from a temp agency, do I only count my employees or all employees?

**A:** Multi-employer worksites, such as in construction, would require each company to count its own employees, so no need for a general contractor to count the workers of subcontractors.

However, each employer must count the total number of workers it employs regardless of where they report for work on a particular day. So if a general contractor has more than 100 employees spread out over multiple construction sites, that employer would still have to count all of those employees and comply with the ETS.

For employees of a staffing agency working at a host employer location, only the staffing agency would count these jointly employed workers.

But temporary/seasonal workers employed directly by the employer are counted, provided they are employed at any point while the ETS is in effect, according to OSHA.

*If you have a safety-related question, email it to Merriell Moyer at: mmoyer@pbp.com*

## OUTSIDE THE LINES

### ■ GROUND CONTROL TO MAJOR ... SNOOPY?

PPE is important in many workplaces, and especially so for astronauts entering the hostile environment that is space.

Space is so hostile that even plush toys must wear NASA-required PPE when taking a trip outside of Earth's atmosphere.

This is highlighted by the fact that a 5-ounce plush Snoopy – the daydreaming beagle from Charles Schulz's "Peanuts" comic strip – will be wearing a real, albeit scaled down, version of a spacesuit while taking a trip on a new rocket in 2022 that's designed to launch humans to the moon, Mars and beyond, according to the *Associated Press*.

This is all part of a zero-gravity test requiring a soft object that won't damage sensitive equipment.

Even the plush toy is made from NASA-approved materials.

#### Did you know ...

Workers must be medically cleared to use certain respirators



Before an employee can wear certain types of respirators they must receive medical clearance.

Source: OSHA

Many employers across multiple industries were cited throughout the pandemic for failing to ensure workers were medically fit to wear respirators before requiring use.

*This feature in each issue of SCA charts trends in national workplace safety and health to help safety professionals perform their jobs.*

# Safety

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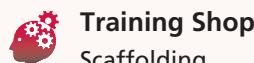
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January 17, 2022

## WHAT'S ONLINE

If you haven't been to our website recently, here's exclusive online content you've been missing:

[www.SafetyComplianceAlert.com](http://www.SafetyComplianceAlert.com)



### Training Shop

Scaffolding



### Checklist

Noise, hearing loss prevention



Be sure to add our address [sca@safetycompliancealert.com](mailto:sca@safetycompliancealert.com) to your safe senders list to receive our safety updates – and keep your company in the know.

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Employer claiming supervisor misconduct must pay OSHA fine

### 8 Answers to Tough Questions

New employees are failing to report blatantly obvious hazards

## Fatal incident shows lengths OSHA will go to in investigations

### ■ How a small agency handles big inspections

You've probably read that OSHA is understaffed, with a shortage of inspectors in particular.

This case shows that when a major event happens, OSHA won't stop until it completes its investigation.

A landfill collapse in Pennsylvania trapped seven workers. Six employees were able to extricate themselves, but one was still missing. Two days later, the body of the seventh was found.

#### Referral triggers visit

Mary Keffer was the OSHA inspector assigned to the case.

Keffer says she arrived on the

scene at night. It had been raining and the precipitation turned to snow. Emergency crews were on site, preparing to leave.

Keffer visited the site nine times, twice with engineering experts from OSHA's national office. An outside expert on landfills was also brought in.

She visited the PA Department of Environmental Protection and met with state police, too.

A challenge for Keffer was the sheer enormity of the site. The landfill was 240 acres, and the landslide covered 12 acres. Help came from the state police and a local TV news station in

(Please see OSHA investigations... on Page 2)

## MARIJUANA

### Status of weed in the workplace: It's complicated

Recreational marijuana is now legal in 17 states and Washington DC. That includes 8 of the 10 most populous states.

Thirty-three million adults admit using cannabis within the last year. Among employed adults, 18% with full-time jobs and 21% with part-time jobs admit use.

"These are our co-workers, and this isn't our parents' weed," said Katie Mueller, Senior Program Management, Impairment Practice, at the National Safety Council, during the NSC's October conference.

#### Employers protected (one exception)

Besides the split in states that do and don't allow recreational use, the states that do allow it are regulating marijuana very differently. There's no federal agency making the rules

uniform since it remains illegal.

For the most part, employers are protected if they want to continue testing for marijuana, according to Mueller. (The exception is New York state, which has a unique marijuana testing law in place.)

But testing itself is also problematic. There's no standard test for impairment.

There is one rule that employers should stick by, Mueller said: Employees can't come to work impaired by marijuana.

Employers can't take action for what employees do off duty, but they don't have to accept impaired employees in the workplace.

The NSC recommends things like considering zero-tolerance policies for safety-sensitive positions and providing employees with tools to fight substance abuse.

## INSPECTIONS

### Contractor fails to abate prior hazards

A New Jersey roofing contractor is in hot water after OSHA found it failed to abate prior violations, bringing its fine total from three separate citations to more than \$500,000.

The company, Janiec Roofing Inc. of Lodi, NY, agreed to establish a comprehensive written safety and health program, train managers and workers, and create daily safety checklists to identify and remove hazards. But a follow-up inspection allegedly revealed the company failed to comply.

#### Follow-up leads to additional fine

Before the follow-up, OSHA conducted inspections of the company as part of a Regional Emphasis Program on fall hazards in construction, according to a Department of Labor news release.

In December 2020, employees were observed working on a roof without fall protection, and in January 2021,

inspectors found employees were using ladders in an unsafe manner along with other violations.

Those two inspections resulted in two willful, four repeat and three serious citations and a fine totaling \$450,521.

The follow-up inspection led to an additional \$180,220 fine for failure to abate the previous violations.

### OSHA investigations ...

(continued from Page 1)

the form of photos of the site.

Keffer says the employer and its representatives didn't interfere with the investigation, but they weren't forthcoming either.

And on top of all this, there was the challenge OSHA faces with every inspection: time.

It must complete the inspection and issue any citations within six months.

#### Inspection results

OSHA found the contributing factors to the landslide were:

- voids occurring before the incident
- the cracks were filled with backfill
- there was significant movement of fill before the incident, and
- a temporary plastic cover hadn't been completely removed before filling.

If you're thinking OSHA doesn't have landfill regulations, remember the agency's catch-all regulation: the General Duty Clause.

OSHA issues one GDC violation for exposing employees to unstable conditions that were apparent at least two weeks before the collapse. The initial fine was \$12,675, which was reduced to \$10,140 upon settlement.

The take-home for employers: Despite being a "small" federal agency, OSHA will use whatever resources it has available, including from outside the agency, to investigate major incidents like fatalities or multiple workers injured.

(Based on a presentation by Mary Keffer, OSHA inspector, at the ASSP's September 2021 conference)

## SHARPEN YOUR JUDGMENT

This feature provides a framework for decision making that helps keep you and your company out of trouble. It describes a recent legal conflict and lets you judge the outcome.

### ■ INJURY AVOIDABLE OR SOME SORT OF FREAK ACCIDENT?

"Do I want to write up this presentation for Corporate?" Safety Manager Pete Travers asked himself aloud.

"No, not really," he answered, but began typing on his keyboard.

A few moments later, John Jenkins, the company attorney, knocked on Pete's door.

"Sorry to interrupt," John began, "but do you have a –"

"Yes," Pete said with a smile. "I have as many minutes as you need."

#### Trunk snapped off, struck worker

"OSHA is citing us over an incident involving a tree," John said.

"George Sellas was helping another employee, Dale Long, clear some trees along a pipeline," Pete said.

"The trees grew pretty thick in this area, and most of them were entwined, so it wasn't easy work," Pete explained.

"They had an excavator on hand for some other work they had to do once the trees were cleared," Pete continued. "Dale decided to use it to push over this one tree that was being particularly troublesome."

"But it was so tied up with other trees that when it fell, the trunk of another tree snapped off and struck George, injuring him pretty badly," said Pete.

"That sounds like a pretty freak sort of incident," John said. "I think we can fight this because there's no way we could anticipate that would happen."

Pete's company fought the citation. Did it win?

■ Make your decision, then please turn to Page 6 for the ruling.

## Safety Compliance Alert

EDITOR-IN-CHIEF: MERRIELL MOYER  
MMOYER@PBP.COM

MANAGING EDITOR: FRED HOSIER  
PRODUCTION EDITOR: P.J. FRONZEO  
EDITORIAL DIRECTOR: CURT BROWN

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## PENALTIES

### The top 5 most expensive fines of 2021

- OSHA'S BIGGEST PENALTIES RANGED FROM ALMOST \$600K TO \$1.3M

A recap of 2021's biggest fines includes two companies that each had to pay more than \$1 million following tragic fatalities on their worksites, and a few who racked up major fines by repeatedly ignoring federal or state safety and health mandates. The full list is below:

1. OSHA fined a water utilities construction company almost \$1.3 million following the deaths of two workers at a Boston dig site. Workers Jordy Alexander Castaneda Romero and Juan Carlos Figueroa Gutierrez died when a dump truck struck them both, pushing them into a nine-foot deep trench at a sewer repair site in Boston.

2. An Ohio aluminum parts manufacturer with a history of safety violations was fined \$1.2 million by OSHA after a fatal incident at its Ravenna plant. The fine follows an investigation into the death of a 43-year-old worker who was struck and killed March 30

3. OSHA cited an Ohio paint manufacturer following an explosion at its Columbus plant that killed one worker and injured eight others. The incident was caused by an improperly altered kettle reactor vessel that released a flammable vapor cloud when its manway cover and gasket failed. The initial fine was \$709,960.
4. A Wisconsin grain facility was cited by OSHA after the engulfment death of a manager in a corn silo. The manager was last seen clearing corn debris from the silo. Employees called 911 after he didn't show up for a regularly scheduled meeting or answer his phone. The initial fine was \$676,808.
5. After six workers died from a liquid nitrogen leak that displaced the oxygen in the room they were working in, four companies were fined for the roles they played in the tragic incident. The four companies received \$998,637 in penalties with the facility owner having to pay \$595,474 of the total.

## CRIMINAL CHARGES

### Guilty verdict upheld for CEO charged in fatal incident

On Dec. 7, the 4th U.S. Circuit Court of Appeals affirmed a jury's 2015 guilty verdict against Donald Blankenship for the Upper Big Branch mine explosion that killed 29 miners.

Blankenship appealed the decision in 2017, and the same appeals court affirmed the guilty verdict at that time.

"Upholding the conviction for the second time, the appeals court found that the jury's verdict was sufficiently supported by evidence to be allowed to stand," according to *Reuters*.

Blankenship, the former CEO of Massey Energy Co., was sentenced to a year in federal prison in April 2016 and ordered to pay a \$250,000 fine for his role in the Upper Big Branch mine explosion.

He was acquitted of all felony charges, but was convicted of a misdemeanor conspiracy charge for willfully violating federal mine safety and health standards.

#### Feds didn't turn over evidence

In its decision, the court also faulted federal prosecutors in the case who were accused of failing to turn over evidence.

Both appeals stemmed from documents prosecutors failed to produce until after the trial was over.

The court found Blankenship's appeals weren't frivolous, but the circumstances that led to those appeals weren't enough to "undermine confidence in the verdict."

## TRENDS TO WATCH

*Watch what's happening in various states. Some actions indicate trends.*

### ■ FEDERAL CONTRACTOR VACCINE MANDATE BLOCKED

On Nov. 30, a federal court blocked enforcement of the federal contractor vaccine mandate in Kentucky, Ohio, and Tennessee.

The U.S. District Court for the Eastern District of Kentucky granted a motion for a preliminary injunction, enjoining the federal government from enforcing the vaccine mandate for federal contractors and subcontractors for all covered contracts in those three states.

All three states filed a lawsuit against the federal government arguing the mandate was contrary to procedure, arbitrary and capricious, and violated the Constitution, according to law firm Frost Brown Todd.

The injunction doesn't apply nationally and could be lifted at a later date.

Other lawsuits regarding the federal contractor vaccine mandate are pending, but to date, this is the only court that has blocked enforcement.

### ■ VACCINE MANDATE INTRODUCED BY CITY

Seems that employers need to keep an eye on their cities as far as COVID-19 vaccine mandates are concerned.

For example, employers in New York City were required to have their employees vaccinated by Dec. 27, which affected approximately 184,000 NYC businesses.

Employers in the city's five boroughs had to ensure employees submitted proof of vaccination before coming to work on Dec. 27, according to law firm Constangy Brooks Smith & Prophete.

However, legal questions remain as to whether the city actually has authority to issue such a mandate.

## Roundup of most recent OSHA citations

Go to [www.SafetyComplianceAlert.com/fines](http://www.SafetyComplianceAlert.com/fines) for more OSHA fines and injury settlements.

### 2 workers killed by hot steam from broken pipe

OSHA cited two organizations, one of them a federal agency, after workers from each were killed by hot steam from a broken metal fixture.

The workers had just finished repairing a steam pipe when a metal fixture on the main steam line blew off, causing both workers to suffer fatal injuries from the hot steam that escaped.  
**Fine:** \$621,218 (U.S. Department of Veterans Affairs); \$38,228 (Mulvaney Mechanical)

**Entities:** U.S. Department of Veterans Affairs, West Haven, CT; Mulvaney Mechanical Inc., Danbury, CT

**Businesses:** General medical and surgical hospital (U.S. Department of Veterans Affairs); plumbing, heating, and air-conditioning contractor (Mulvaney Mechanical)

#### Reasons for fines:

U.S. Department of Veterans Affairs:  
*Two willful violations for failure to:*

- develop documented procedures for control of potentially hazardous energy
- clearly outline procedures to be used for control of potentially hazardous energy

*Three repeat violations for failure to:*

- conduct periodic inspections of energy control procedures
- provide training to ensure purpose of energy control procedures were understood by employees
- ensure authorized employees used lockout/tagout devices

*Six serious violations, including failure to:*

- notify affected employees before using lockout/tagout devices
- ensure orderly shutdown of equipment

Mulvaney Mechanical:

*Four serious violations, including failure to:*

- retrain employees following changes in job assignment

- inform on-site employer of company's lockout/tagout procedures

### Workers exposed to repeat amputation hazards

A Texas tortilla manufacturer was cited by OSHA for repeatedly exposing employees to amputation hazards.

Worker complaints of dangerous amputation hazards resulted in the inspection.

**Fine:** \$218,839

**Company:** El Milagro of Texas Inc., San Marcos, TX

**Business:** Tortilla manufacturing

#### Reasons for fine:

*Three repeat violations for failure to:*

- ensure sanitation employees were applying energy control devices to machines being cleaned
- develop procedures for controlling hazardous energy while sanitation employees were cleaning machines
- fit test employees using tight-fitting facepiece respirators prior to initial use of respirators

*Five serious violations, including failure to:*

- provide medical evaluations to determine an employee's ability to use respirators
- ensure lockout/tagout devices indicated identities of employees applying them

### Employees test positive for COVID: \$10K OSHA fine

The operator of a transitional housing facility was cited by OSHA after 11 employees and 28 residents tested positive for COVID-19.

Infected residents weren't isolated and mask and social distancing mandates weren't enforced.

**Fine:** \$10,923

**Company:** AMA Health Holdings LLC, Tinton Falls, NJ

**Business:** Community housing services

#### Reasons for fine:

*One serious violation for failure to:*

- provide employment free from recognized COVID-19 hazards likely to cause death or serious physical harm

### WORKERS' COMP DECISIONS

#### Didn't report injury, prior back problems: Benefits?

A welder failed to report his back injury and prior medical issues to his employer. Can he collect benefits?

**What happened:** The welder hurt his back as he stood up after completing a weld. He didn't report the injury since he thought it didn't qualify as work-related, but later filed a claim. He also failed to disclose prior back problems before he got hired.

**Company's reaction:** You didn't report the injury or your previous back problems.

**Decision:** He could collect. The court found there was enough evidence proving a work-related injury. However, the court said he was not entitled to attorney's fees.

**Cite:** *Headley v. Textron Systems*, LA Court of Appeals, No. 2020-CA-1174, 4/26/21.

#### Fell into sinkhole while exiting car: Can she collect?

A judicial assistant on her way to work was injured when she fell into a sinkhole. Can she collect?

**What happened:** The assistant parked on the street near the courthouse. She was injured when she exited her vehicle and a large sinkhole opened under her feet, causing her to fall in. A co-worker and three police officers managed to pull her out of the hole.

**Company's reaction:** This didn't happen on our property and it didn't occur during work time.

**Decision:** She couldn't collect. The court agreed with the employer that since the incident was off company premises and didn't occur during work hours, the claim should be denied.

**Cite:** *Browning v. State of Delaware*, Superior Court of DE, No. K20A-03-001 VLM, 5/3/21.

# WHAT'S WORKED FOR OTHER COMPANIES

## REAL PROBLEMS, REAL SOLUTIONS

### Talking with employees, not at them

We had an incident in which an employee got his hand stuck in a piece of equipment and was seriously injured.

As a result, we developed a process on how to use equipment properly.

We went through every job safety analysis for every piece of equipment.

If the foreman didn't sign off for you, you weren't allowed to use that equipment.

We moved this method into our construction work and listed the tasks of the day and the hazards associated with them.

Supervisors were supposed to lead a talk based on that list before work started each day: a task hazard analysis (THA).

But we ran into a problem.

#### No interaction, no interest

The supervisor, or someone appointed by them, read the THA aloud with everyone else just standing there, listening.

The problem was, we were talking at people, not talking with them.

If this activity took 10 minutes at the start of each workday, we calculated the time spent amounted to \$240,000 each year.

These talks didn't have value the way they were happening.

So we modified the THA process for our construction teams.

#### Real conversations

Instead, the supervisor would ask each employee on the team to talk about some hazards they faced with that day's job.

Each employee mentioned a couple of hazards and what they'd be doing to mitigate them.

The supervisor listened to them instead of talking at them.

This wasn't difficult to do.

When we asked for participation and they weren't getting anything from the talks, that was disrespectful to them.

When we changed the process, someone was now listening to the employees, showing them respect.

If the focus of a THA is filling out a form or reading something aloud, and not having a conversation, you're wasting your time. The THA won't accomplish its intended purpose.

Going through the motions of just having someone read the hazards aloud and then having workers sign off that they heard what was said cheapened the entire safety culture.

#### Extra benefits

With our new THA process, those workers with more experience lead the way in the discussions, and the less-experienced employees soon learn that this is the norm for us.

It also prepares younger workers to feel comfortable talking in front of their peers. That sets them up for a key part of becoming a supervisor down the road: talking with other employees.

Now we have a workforce that is engaged in safety. Supervisor leadership skills improved and our safety culture was enhanced in the process.

(Based on a presentation by David Murphy, VP Safety, Pepper Construction Co. of Indiana, Indianapolis, at the ASSP's Safety21 Conference)

### Mitigating disadvantages of online safety training

Many companies have switched to online training due to COVID-19. But how do you make it more engaging?

Combine asynchronous and synchronous online training.

Asynchronous is the prerecorded material workers use at their own pace. Synchronous includes live webinars, virtual classrooms and video conferencing. It's more interactive.

This is blended learning. Colleges have used it for a while with success.

For safety pros who've been skeptical about online training, blended learning may be a good compromise.

(Based on a presentation by Marilyn Hubner, Buildup Research, Melbourne, Australia, at ASSP's 2021 conference)

## TRAINING TIPS

### Have a need for speed? Don't bring it to a forklift

Warehouses, loading docks and manufacturing plants are busy places where forklift operators typically have to work against tight deadlines.

But being busy is no excuse to drive a forklift at excessive speeds.

Driving a forklift too fast can lead to hazards such as product falling off carried pallets and pedestrians getting struck, and can lead to the forklift running off the edge of a dock or tipping over.

All of these incidents can result in operator or pedestrian injury and even death.

The easy way to mitigate such hazards? OSHA suggests driving forklifts slowly, especially on docks or dock plates leading into a trailer.

### Excavated soil must be kept away from edge of trench

Workers shouldn't pile up soil removed from a trench on the edge of an excavation.

Seems like common sense, right? The loose soil could easily fall back into the trench, which at the least could cause the worker to have to remove it again. Even worse, it could result in a cave-in if it gets piled up too high.

Even though it seems like workers should know, this type of trench violation comes up with some frequency in OSHA citations involving excavations.

The latest example involves a pair of contractors in Rhode Island whose workers were observed in a trench 5- to 8-feet deep without cave-in protection.

Inspectors also found the workers were piling up soil less than 2 feet from the edge of the trench, which put the workers at risk and cost the company \$23,405 for that violation alone. The total fine was \$63,586.

## COURT DECISION

### Employer claiming supervisor misconduct must pay OSHA fine

The 5th Circuit Court of Appeals upheld a citation and \$35,000 fine against a construction contractor that argued its supervisor, who decided not to use a trench box in an excavation, was guilty of unforeseeable employee misconduct.

The appeals court found that “imputing the supervisor’s knowledge of the safety violation to the employer is appropriate in this situation under basic agency principles.”

Angel Brothers Enterprises began installing a concrete drainage pipe next to a road in LaPorte, TX, on Dec. 8, 2015.

A safety manager told foreman Salvador Vidal that a trench box would be needed because benching longer worked due to the proximity of a nearby intersection.

An OSHA inspector arrived the next day – before the safety manager showed up for his own inspection – and found an employee working in the trench without a trench box.

Vidal admitted he allowed the employee to work in the trench without protection.

OSHA issued a willful violation, which Angel contested, arguing the incident was the result of Vidal’s unforeseeable employee misconduct.

To prove misconduct, an employer must show it had safety rules addressing the hazard, training on the rule, adequate supervision of employees and effective enforcement, with supervisory misconduct also requiring a further showing of unforeseeable conduct, which an administrative law judge (ALJ) and the full Occupational Safety and Health Review Commission (OSHRC) said was lacking in this case.

#### Lack of enforcement

The ALJ and OSHRC found Angel lacked adequate enforcement of its rules, which also countered the unforeseeable conduct claim.

Ultimately, the appeals court agreed and upheld the citation and fine.

### Comment period for heat hazard rule extended

OSHA extended the comment period on its Advance Notice of Proposed Rulemaking for Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings to Jan. 26, 2022.

This 30-day extension provides stakeholders more time to review

the proposed standard and to collect information and data needed for comment.

In addition to the heat-specific rule, OSHA instituted a heat-related enforcement initiative and will be rolling out a National Emphasis Program for heat-related safety efforts sometime in 2022.

Comments can be submitted electronically at [regulations.gov](http://regulations.gov) under Docket No. OSHA-2021-0009.

### Worker’s fall from ladder was violation of state regs

A worker in Washington was injured after failing to properly secure a ladder, which also put his employer in violation of state regs.

The state’s Department of Labor & Industries (L&I) released a Fatality Assessment & Control Evaluation (FACE) report on a framer who was seriously injured after falling 8 feet from an extension ladder he failed to secure that was resting on soft, uneven dirt.

Investigators found a violation of WAC 296-876-40015(1), which states ladders must be secured against accidental displacement.

### SHARPEN YOUR JUDGMENT – THE DECISION

(see case on Page 2)

No, Pete’s company lost when an administrative law judge upheld the citation, finding “the fact that dead trees fall over is neither freakish nor unforeseeable.”

OSHA claimed the hazard could have been abated by requiring employees to carefully consider various factors related to tree removal operations and take appropriate actions to ensure safe removal.

The company argued it couldn’t have recognized a hazard that was freakish in nature and couldn’t have been foreseen.

But the judge disagreed, finding the hazard was obvious. The company had rules and training on tree removal, so the workers knew what they were doing.

However, the training was lacking because they didn’t identify the hazard, figure out a better way to down the trees, and communicate effectively to let each other know when a tree was going to be falling.

#### ■ ANALYSIS: THE INTENDED USE OF EQUIPMENT

Sometimes supervisors and workers need to be reminded that just because a piece of equipment may appear to be the most efficient means of doing a task doesn’t mean it’s the safest.

If someone suggests using equipment for a purpose it’s not usually used for, it’s a sure sign a hazard analysis or extra planning for safety should take place.

**Cite:** *Secretary of Labor v. Eastern Gas Transmission and Storage, Occupational Safety and Health Review Commission, No. 20-0653, 9/27/21. Dramatized for effect.*

# Government notices on workplace safety

Here's SCA's digest of key notices that appeared recently in the Federal Register (FR) or on OSHA's website concerning workplace safety issues. For the FR listings and other related links, go to SafetyComplianceAlert.com/category/federal-activities.

### TEEN WORKERS

A pizza restaurant franchise owner with five locations around the Charleston, SC, area had to pay more than \$100,000 in fines after investigators found it employed minors in hazardous labor.

Roshan Operations LLC – the operator of five Charleston-area Marco's Pizza locations – is accused of allowing a 17-year-old to work as a delivery driver and assigning minors ages 14 to 17 to operate a pizza dough mixer.

Both activities are deemed prohibited hazardous activities that minors are not allowed to take part in, according to a Department of Labor (DOL) news release.

The DOL's Wage and Hour Division also found the company scheduled 14- and 15-year-old minors to work after 7 p.m., more than three hours on a school day and more than 18 hours in a school week, violating federal work hour standards.

A fine of \$101,027 had to be paid by the company to resolve the violations.

Roshan Operations was also accused of failing to combine work hours when employees worked in multiple locations in the same workweek, resulting in the recovery of \$5,425 in back wages for 26 workers.

### TRANSPORTATION

Teen drivers may become more prevalent in long-haul commercial transportation following the recent passage of the Developing Responsible Individuals for a Vibrant Economy (DRIVE) Safe Act.

The DRIVE Safe Act was passed along with the \$1 trillion infrastructure bill President Joe Biden

signed into law on Nov. 15.

This law "requires transportation secretary Pete Buttigieg to establish an apprenticeship program for young drivers by Jan. 14, 2022," according to Quartz.

The program could see up to 25,000 18- to 20-year-old commercial drivers per year certified to become long-haul, interstate drivers until it ends in 2024.

Apprentice drivers will be required to drive 240 hours under the supervision of an older driver while driving a truck equipped with extra safety features such as automatic brakes and a 65 mph speed governor.

However, once that 240 hours of supervised time is over, they're free to drive on any interstate route across the U.S.

The U.S. Federal Motor Carrier Safety Administration proposed a pilot program in September 2020 with the same goal of getting teen drivers into the seats of interstate commercial vehicles.

Some experts have safety concerns regarding teens operating trucks during long-haul operations, including the Owner-Operator Independent Drivers Association, which represents independent drivers and small trucking companies.

Young drivers tend to get involved in crashes more frequently, with some studies showing teen drivers are "six times more likely to get into a deadly crash than the average trucker."

### CHILD LABOR LAW

A New York Chuck E. Cheese restaurant is in hot water with the Department of Labor (DOL) after an investigation found a teen worker was allegedly allowed to operate a power-driven dough mixer.

DOL Wage and Hour Division investigators found the restaurant, owned by CEC Entertainment LLC, also failed to record the birth date for one minor employee, according to a news release.

CEC Entertainment paid \$2,285 in fines for the citations.

### WHERE TO GET HELP

#### ■ NIOSH, OSHA UPDATE TECH MANUAL ON ROBOT SAFETY

The National Institute for Occupational Safety and Health (NIOSH) teamed up with OSHA and the Association for Advancing Automation to update the federal agency's technical manual on robots.

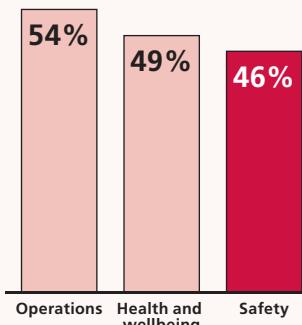
OSHA's "Technical Manual, Section IV, Chapter 4, Industrial Robot Systems and Industrial Robot System Safety" provides technical information to agency inspectors and others who perform safety inspections at facilities with robot systems.

This chapter is intended as a guide to robot systems found in industrial applications and covers basic robot components and structure, hazards associated with industrial robots, and safety considerations for employers and workers.

**Info:** [osha.gov/otm/section-4-safety-hazards/chapter-4](http://osha.gov/otm/section-4-safety-hazards/chapter-4)

### What safety officers told us

Is safety a top priority for frontline workers?



Source: SafetyCulture's "Feedback from the field" survey of 1,950 frontline workers

Despite being third on the list of priorities that were important to them, frontline workers still consider safety a major concern, placing it just behind their own health.

Each issue of SCA contains an exclusive survey to give safety professionals insight into what their peers nationwide are thinking and doing.

# ANSWERS TO TOUGH SAFETY QUESTIONS

Safety pros like you face questions every day on how to keep your employees safe. On this page, you'll get answers to real-life questions and situations you could encounter in either a "Management Scenario" or "Experts' Solutions."

## New employees are failing to report blatantly obvious hazards in the facility

### The Scenario

"What is going on in this facility?" Manager Mike Kelly asked himself as he discovered yet another minor, but still reportable hazard.

He was on one of his regular safety walks, which in years past would net the occasional missed hazard – usually something so far out of sight most employees just didn't manage to see it to report it.

*But it has been different lately, Mike thought. These are really obvious, out-in-the-open hazards someone should have reported before I ever set eyes on it.*

### 'We've had a lot of turnover'

Mike walked into the production office and found Supervisor Ken Dawson filling out paperwork.

"Please tell me that's a report on

 Click [www.safetycompliancealert.com/category/what-would-you-do/](http://www.safetycompliancealert.com/category/what-would-you-do/) to see other safety pros' comments on challenging scenarios

one of the hazards I just found out on the production floor," Mike said.

"Sorry, Mike, this isn't that kind of report," Ken said. "And we've been so slammed with orders that I haven't had a chance to get out on the floor yet myself."

"We shouldn't be the only ones looking," Mike said. "The employees should be reporting this stuff, too. And we tell them all the time to report anything they see."

"And the old crew would have listened, but these new guys are really reluctant to talk to us," Ken said.

"You're right, we have had a lot of turnover lately," Mike said.

"Right," Ken replied. "So how do we convince them it's OK to report hazards?"

If you were Mike, what would you do in this situation?

### Reader Responses

#### 1 Elise Allen, EHS Program Manager, Jergens, Cleveland

*What Elise would do:* I would start by seeing who on the floor I could engage – a not-so-new person. Get their buy-in and find out why things are not being reported. Try to use them as a conduit to others and push out the message that we are all safety, not just the safety department. Also that everyone is safer if issues are reported so they can be fixed.

If you have new-hire orientation, I'd also bring up the fact that fresh eyes see things that we may miss, and we need the new eyes to point out things we've become blind to.

Can you get some of the new hires to do a walk around with you? Maybe part of the issue is not knowing what is wrong.

*Reason:* Also, managers need to take the time, even when slammed with orders, to do short walks. Workers need to see managers and others so there is a feeling that we are all part of the same process.

#### 2 Leroy Spittle, Safety Manager, Roy Spittle Associates, Gloucester, MA

*What Leroy would do:* High turnover and "being too busy lately" are not excuses for not reporting possible safety issues. They are the reason for neglecting reports.

*Reason:* Safety is the first priority and responsibility of management.

The solution is to call a meeting of all employees reinforcing the importance of reporting safety hazards.

Management must lead in upholding safety regulations.

### OUTSIDE THE LINES

#### ■ IS YOUR EMERGENCY CREW READY FOR FROZEN COWS?

If you've got an emergency response crew at your facility, you probably like to think they're prepared to handle any sort of emergency that may come up.

But are they prepared to rescue cows from freezing waters?

Firefighters and police in northwestern China had to rescue more than 20 cows when they fell into a frozen pond.

The cows were drinking from gaps in the ice when the frozen sheet collapsed, plunging them into the icy pond.

It took rescuers about an hour to pull all the cows to safety using ropes and lots of teamwork.

If you want to see what the rescue operation looked like, check out the video at [bit.ly/3oihEl1](http://bit.ly/3oihEl1)

### Did you know ...

Make sure forklift attachments are properly installed



Equipment attachments on forklifts should be inspected prior to use to avoid struck-by hazards.

Source: OSHA

Attachments can fall off if they're not installed correctly, so inspecting for proper installation is important. Otherwise, employees could be exposed to struck-by or other hazards.

*This feature in each issue of SCA charts trends in national workplace safety and health to help safety professionals perform their jobs.*



# OSHA Record Keeping and Reporting Cheat Sheet

## How compliant is your organization?

Accidents happen. When they do, you need to record information quickly to ensure both swift action and proper reporting to avoid hefty citations and potential legal action. Use KPA's OSHA Reporting Cheat Sheet to navigate the complexities of OSHA reporting. Or, discover how you can streamline OSHA reportable accidents through KPA EHS Software at [www.kpa.io/ehs-software](http://www.kpa.io/ehs-software).

# The Importance of Record Keeping

## Record Keeping Best Practice

- ◆ Keeping track of injuries and accidents can prevent them from happening in the future
- ◆ Use injury and illness data to conduct root-cause analysis
- ◆ Identify trends and patterns to determine where your safety program may be insufficient and develop processes to correct and prevent future hazards
- ◆ Track data and safety progress to help optimize your safety and health programs
- ◆ Keep driving awareness around the importance of reporting to employees to prevent injuries, illnesses, and hazards in the workplace and reinforce safe practices
- ◆ Maintain your records for five years following the end of the calendar year that these records cover.

## Record Keeping Exemptions

- ◆ Keep OSHA records regardless of exemption
- ◆ Have 10 or fewer employees throughout the entire year? Congrats - you're exempt from record keeping
- ◆ If your organization is [classified as a low-hazard industry](#), you may be partially exempt from record keeping. You'll still need to comply with rules around reporting injuries. Even if you're not required to maintain OSHA 300 logs, it's still recommended that you do so.

## Recordable Injuries and Illnesses

- ◆ You must record the injury or illness if it is work-related. [Consult OSHA guidelines](#) if you are unsure whether an incident is considered work-related
- ◆ You must record the injury or illness if it requires medical attention beyond first aid. [Consult OSHA guidelines](#) for examples and definitions of injuries or illnesses beyond first aid

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## Reportable Injuries and Illnesses

- ◆ If you have a fatality on site, that case must be reported to OSHA within 8 hours
- ◆ If one of your employees experiences an injury that requires in-patient hospitalization or results in an amputation or loss of eye as a result of a work-related incident, you must report it within 24 hours
- ◆ If a fatality occurs within 30 days of the work-related incident, or if an in-patient hospitalization, amputation, or loss of an eye occurs within 24 hours of the work-related incident, then you must report the event to OSHA
- ◆ If you do not learn about a reportable fatality, in-patient hospitalization, amputation, or loss of an eye right at the time it takes place, you must make the report to OSHA within the following time period after it's reported:
  - ◆ Eight hours for a fatality
  - ◆ Twenty-four hours for an in-patient hospitalization, an amputation, or a loss of an eye
- ◆ Ensure that you have process in place to report accidents that occur after regular business hours and/or on weekends
- ◆ More information: <https://www.osha.gov/laws-regulations/standardnumber/1904/1904.39>

# How to Report Events

## Reportable Injuries and Illnesses

There are several options for getting in contact with OSHA:

- ◆ By telephone, calling the OSHA area office
- ◆ By telephone, calling the 24-hour OSHA hotline: 1-800-321-OSHA (6742)
- ◆ Electronically, using the reporting phone at <https://www.osha.gov/pls/ser/serform.html>

Remember that if the area office is closed, you must still report the incident within the timeline outlined by your state

## Required Reporting Information

- ◆ Establishment name
- ◆ Location of the work-related incident
- ◆ Time of the work-related incident
- ◆ Type of reportable event
- ◆ Names and number of employees who suffered a fatality, in-patient hospitalization, amputation, or loss of an eye
- ◆ Your contact person and their phone number
- ◆ Brief description of the work-related incident
- ◆ Each OSHA defined "establishment" must maintain and keep the required OSHA recordkeeping documentation. Some exemptions apply. See [https://www.osha.gov/pls/oshaweb/owadisp.show\\_document?p\\_id=12790&p\\_table=STANDARDS](https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_id=12790&p_table=STANDARDS) for further clarification

## OSHA Form 301 – Injury and illness incident report

- ◆ Use form 301 to record the work-related injury or illness
- ◆ Form 301 is not a requirement—as long as you're capturing and storing all the data requested on the 301 form
- ◆ Must be filled out within 7 calendar days of the incident
- ◆ Must be kept on site for 5 years
- ◆ Each OSHA defined "establishment" must maintain and keep the required OSHA recordkeeping documentation. Some exemptions apply. See [https://www.osha.gov/pls/oshaweb/owadisp.show\\_document?p\\_id=12790&p\\_table=STANDARDS](https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_id=12790&p_table=STANDARDS) for more information.

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## OSHA Form 300 – Log of work-related injuries and illnesses

- ◆ Use form 300 to keep an ongoing log that classifies work-related injuries/illnesses and notes severity of incident
  - ◆ Example incidents include record death, loss of consciousness, days away from work, restructured work activity, or medical treatment beyond first aid
- 

## OSHA Form 300 A – Summary of work-related injuries and illnesses

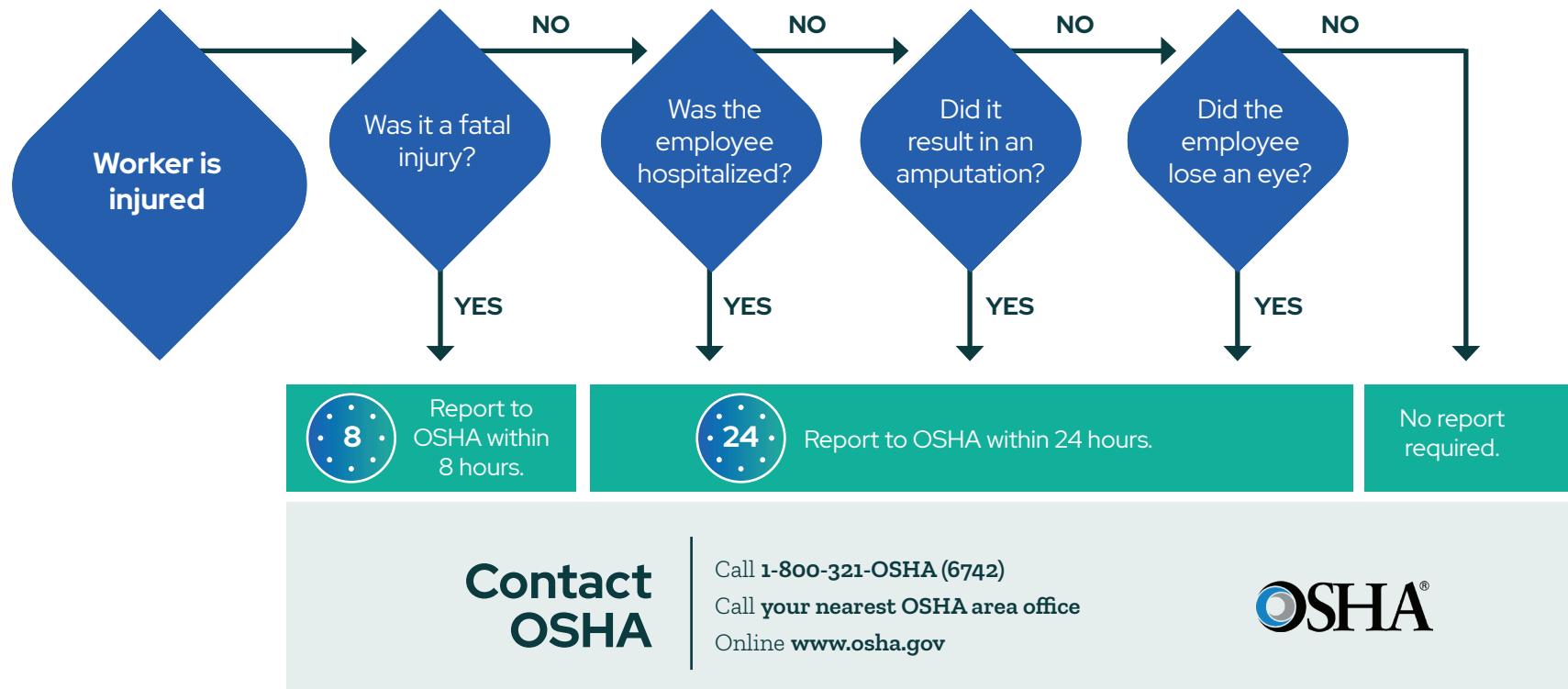
- ◆ Use form 300 A at end of year to record work-related injury/illness totals for the previous year in each category
  - ◆ Must be posted by February 1st and remain up until April 30th
  - ◆ Must be posted in an area visible to all employees such as a break room
  - ◆ Must be signed by a "certifying official" and posted in visible area
- 

## Electronic Record Submission

- ◆ Determine if your organization needs to electronically report accident information to OSHA
- ◆ You must submit forms 300A, 300, and 301 electronically if you have an establishment with 250 or more employees
- ◆ Establishments with 20–249 employees in certain high-risk industries must also electronically submit some information to OSHA. [Consult OSHA guidelines](#) to determine if your organization needs to submit injury and illness data via form 300A
- ◆ You must complete electronic report submissions by March 2nd <https://www.osha.gov/injuryreporting/ita/>

# When Should I Report to OSHA?

*There are many nuances when it comes to OSHA reporting, so when in doubt please reach out to a consultant or the Occupational Safety and Health Administration to help you determine the correct protocol.*



Contact  
OSHA

Call 1-800-321-OSHA (6742)  
Call your nearest OSHA area office  
Online [www.osha.gov](http://www.osha.gov)



# Are your Incident Records OSHA Compliant?

KPA solutions help clients identify, remedy, and prevent workplace safety and compliance problems across their entire enterprise. The combination of KPA's software, consulting, and training helps organizations minimize overall risk so they can focus on what's important—their core business.

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*Don't let OSHA recordkeeping requirements take more time and energy than necessary.*

Complete and file OSHA Forms 301, 300, and 300A quickly and accurately with KPA EHS Software. KPA's software solutions will keep your workforce in compliance with OSHA, DOL and other regulatory standards.

