



Oregon Pacific-Cascade

Local Union #659

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

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

**1.0 Communications**

- GC’s and vaccine requirements- more prevalent- Fed date 10/18/21
- VA Hospital and Medford Regional requirement for onsite

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

2.1 Safety Packet Review

2.2 EC Magazine

- 2.2.1 Arc Flash and Flame protective PPE- care and wear
- 2.2.2 Arc Flash studies IEEE- IBEW/NECA approach=chart
- 2.2.3 Solar- Hazard Protection: Installing safely

2.3 Safety & Health Magazine

- 2.3.1 OSHA ETS- COVID-19 Vaccine and Testing
- 2.3.2 OSHA Anti-retaliation- ‘but-for’ language- ONLY

2.4 EHS Today

- 2.4.1 Workplace safety and productivity go hand-in-hand

**3.0 OSHA Injury/Incidents**

- 3.1.1 None reported

**Next Meeting** – October 12, 2021

**Adjournment**

October 12, 2021

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Senior Safety Consultant

# NECA



# IBEW

**Oregon Pacific-Cascade**

**Local Union #659**

Joint Safety Committee  
Oregon Pacific-Cascade Chapter, NECA  
IBEW Local 659  
Tuesday October 19, 2021  
Meeting AGENDA

**Rollcall: meeting called to order** In-person and videoconferencing

**Approval of Previous Meeting Minutes**

## **1.0 Communications**

- 1.1 NECA Director of Outside Line Safety- New Position
- 1.2 NIOSH N95 new factsheet and fit guide

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

- 2.1 Safety Packet Review
- 2.2 EC Magazine
  - 2.2.1 Utility damage prevention tips
  - 2.2.2 Training tomorrows Workforce
- 2.3 Safety & Health Magazine
  - 2.3.1 Safety at every rung- last ladder training?
  - 2.3.2 Human and Organizational Performance-
  - 2.3.3 Safety Manager or Leader?
  - 2.3.4 Proposed hike in OSHA Fines to \$50k minimum
- 2.4 EHS Today
  - 2.4.1 OSHA Onsite visit- What do you do?
  - 2.4.2 Employees with Chronic Conditions

## **3.0 OSHA Injury/Incidents**

- 3.1 280
  - 3.1.1 8.31.21-Pushing a wire cart, bodily reaction, back strain, Modified Duty

## **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: November 9, 2021**



# **Safety Meeting Packet**

**October 2021**

## 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	864,973	8	108,122	82,595	93,391	100,648	113,117	116,512	109,213	125,311	124,186				
280	Inside Appr.	283,819	8	35,477	27,402	29,644	32,778	36,549	37,192	36,618	42,200	41,436				
280	MAI	0	8	0	0	0	0	0	0	0	0	0				
280	Material	86,898	8	10,862	10,283	9,566	9,875	9,398	10,971	9,784	12,787	14,234				
280	Residential	51,352	8	6,419	4,681	5,546	6,563	7,284	6,259	6,573	7,492	6,954				
280	Resi. Appr.	36,255	8	4,532	2,774	3,627	4,182	4,892	4,735	5,198	5,560	5,287				
280	S & C	138,195	8	17,274	14,409	16,486	17,317	18,920	16,101	16,976	20,013	17,973				
280	S & C Appr.	63,692	8	7,962	5,989	6,463	7,770	8,991	7,882	8,284	9,487	8,826				
280	Support Tech/MOU	78,826	3	26,275	7,374	9,693	9,520	11,167	9,824	9,854	12,073	9,321				
	<b>TOTAL 280</b>	<b>1,604,010</b>		<b>216,923</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>0</b>	<b>0</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>0</b>	<b>0</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>#DIV/0!</b>	<b>#DIV/0!</b>	<b>#DIV/0!</b>	<b>#DIV/0!</b>
659	Inside	171,396	8	21,425	14,402	17,416	19,899	25,953	24,333	22,532	25,452	21,409				
659	Inside Appr.	78,410	8	9,801	6,631	7,413	8,788	10,921	10,322	10,122	12,403	11,810				
659	Material	3,095	8	387	326	315	506	286	339	402	594	327				
659	Residential	5,146	8	643	529	604	571	662	480	534	896	870				
659	Resi. Appr.	2,497	8	312	192	292	388	404	255	305	369	292				
659	S & C	4,116	8	515	377	388	574	547	548	454	665	563				
659	S & C Appr.	192	8	24	31	141	4	6	3	0	7	0				
	<b>Total 659</b>	<b>264,852</b>		<b>33,107</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>0</b>	<b>0</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>0</b>	<b>0</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>#DIV/0!</b>	<b>#DIV/0!</b>	<b>#DIV/0!</b>	<b>#DIV/0!</b>
932	Inside	70,439	8	8,805	7,377	8,779	10,566	10,940	8,774	9,169	6,793	8,041				
932	Inside Appr.	32,125	8	4,016	3,196	4,050	4,393	4,592	4,322	4,559	3,408	3,605				
932	Residential	3,012	8	377	204	321	457	595	467	265	402	301				
932	Resi. Appr.	724	8	91	123	145	0	0	0	143	173	140				
932	S & C	3,456	8	432	248	276	556	406	433	587	402	548				
932	S & C Appr.	166	8	21	49	37	50	19	0	0	11	0				
	<b>Total 932</b>	<b>109,922</b>		<b>13,740</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>0</b>	<b>0</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>0</b>	<b>0</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>#DIV/0!</b>	<b>#DIV/0!</b>	<b>#DIV/0!</b>	<b>#DIV/0!</b>
	<b>Grand Total</b>	<b>1,978,784</b>		<b>263,770</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>0</b>	<b>0</b>	<b>0</b>	

9/28/2021

**2021 LABOR HOURS RECAP  
ALL SIGNATORY CONTRACTORS**

<b>Total NECA</b>	<b>1,611,218</b>	<b>8</b>	<b>201,402</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>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>% NECA</b>	<b>81%</b>		<b>76%</b>	<b>82%</b>	<b>84%</b>	<b>81%</b>	<b>84%</b>	<b>81%</b>	<b>80%</b>	<b>80%</b>	<b>80%</b>	<b>#DIV/0!</b>	<b>#DIV/0!</b>	<b>#DIV/0!</b>	<b>#DIV/0!</b>

## 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	703,994	8	87,999	68,719	79,269	83,261	95,582	94,542	87,129	97,212	98,280			
280	Inside Appr.	211,641	8	26,455	19,971	22,732	24,344	28,177	26,492	26,926	32,339	30,660			
280	MAI	0	8	0	0	0	0	0	0	0	0	0			
280	Material	74,999	8	9,375	9,029	8,340	8,326	8,475	9,736	8,582	10,254	12,257			
280	Residential	31,728	8	3,966	2,769	3,611	3,792	4,443	3,811	4,157	4,870	4,275			
280	Resi. Appr.	27,652	8	3,457	2,079	2,906	3,110	3,854	3,678	4,014	4,209	3,802			
280	S & C	129,087	8	16,136	13,492	15,682	16,253	17,730	14,956	15,710	18,691	16,573			
280	S & C Appr.	62,275	8	7,784	5,822	6,303	7,575	8,794	7,716	8,113	9,311	8,641			
280	Support Tech/MOU	78,794	3	26,265	7,374	9,693	9,520	11,167	9,824	9,854	12,041	9,321			
<b>Total 280</b>		<b>1,320,170</b>	<b>67</b>	<b>181,437</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>0</b>	<b>0</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	128,198	8	16,025	10,690	12,739	14,033	20,482	18,441	15,971	19,974	15,868			
659	Inside Appr.	55,900	8	6,988	4,847	5,320	6,095	8,181	7,293	6,505	9,185	8,474			
659	Material	1,123	8	140	75	10	122	0	117	219	431	149			
659	Residential	1,738	8	217	284	226	191	174	141	143	264	315			
659	Resi. Appr.	180	8	23	0	80	80	20	0	0	0	0			
659	S & C	4,072	8	509	333	388	574	547	548	454	665	563			
659	S & C Appr.	192	8	24	31	141	4	6	3	0	0	7			
<b>Total 659</b>		<b>191,403</b>		<b>23,925</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>0</b>	<b>0</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	66,727	8	8,341	6,812	8,226	9,873	10,116	8,086	8,495	7,810	7,309			
932	Inside Appr.	29,501	8	3,688	2,997	3,832	4,134	4,373	3,992	4,086	2,834	3,253			
932	MAI	0	8	0	0	0	0	0	0	0	0	0			
932	Residential	0	8	0	0	0	0	0	0	0	0	0			
932	Resi. Appr.	0	8	0	0	0	0	0	0	0	0	0			
932	S & C	3,251	8	406	248	276	391	403	433	567	396	537			
932	S & C Appr.	166	8	21	49	37	50	19	0	0	11	0			
<b>Total 932</b>		<b>99,645</b>		<b>12,456</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>0</b>	<b>0</b>	<b>0</b>

<b>Grand Total</b>		<b>1,611,218</b>		<b>217,818</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>0</b>	<b>0</b>	<b>0</b>
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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>	124,362	150,693	171,896	141,612	152,580	176,209	132,408	180,192	171,516	172,152	180,357	179,521	1,933,498
<b>2018</b>	129,958	152,277	187,788	175,909	199,302	194,584	197,419	246,866	230,127	238,937	241,813	261,195	2,456,175
<b>2019</b>	235,064	267,789	302,365	274,692	291,848	269,365	243,405	312,956	299,388	305,249	332,724	289,681	3,424,525
<b>2020</b>	269,064	305,744	303,666	204,430	211,800	216,251	245,543	256,035	196,445	272,974	231,380	249,688	2,963,020
<b>2021</b>	189,192	214,593	235,405	265,649	259,752	251,572	286,491	276,130	0	0	0	0	1,978,784
<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>897,476</b>	<b>989,312</b>	<b>986,274</b>	<b>980,085</b>	<b>12,756,002</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>	100,470	125,233	141,871	118,878	127,241	148,638	108,231	148,241	132,386	126,237	127,950	132,070	1,823,025
<b>2018</b>	100,801	121,674	149,612	140,924	160,511	152,229	156,427	200,133	190,473	197,958	202,072	222,483	1,537,446
<b>2019</b>	199,200	231,668	259,726	232,744	244,112	226,383	200,634	261,084	237,306	253,322	247,628	235,455	1,995,297
<b>2020</b>	224,793	255,228	246,899	167,739	169,124	172,186	203,008	209,747	162,195	231,451	191,467	211,496	2,829,262
<b>2021</b>	155,621	179,811	191,728	222,543	209,809	200,925	230,497	220,284	0	0	0	0	1,611,218
<b>Grand Total</b>	780,885	913,614	989,836	882,828	910,797	900,361	898,797	1,039,489	722,360	808,968	769,117	801,504	9,796,248

**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>	14,658	21,350	26,115	21,955	23,267	28,077	17,996	26,285	31,534	32,069	36,108	37,772	267,940
<b>2018</b>	21,344	24,542	30,838	24,723	25,527	31,562	27,500	37,546	28,153	26,958	31,873	27,854	317,186
<b>2019</b>	21,197	25,620	29,205	25,630	33,395	27,182	25,193	35,508	41,951	54,575	72,625	52,457	338,420
<b>2020</b>	43,270	54,711	48,644	28,261	31,390	25,282	29,461	26,442	25,695	33,549	28,151	31,985	444,538
<b>2021</b>	22,488	26,569	30,730	38,779	36,280	34,349	40,379	35,278	0	0	0	0	264,852
<b>Grand Total</b>	122,957	152,792	165,532	139,348	149,859	146,452	140,529	161,059	127,333	147,151	168,757	150,068	1,632,936

**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>	10,754	16,802	21,157	17,244	17,899	22,023	13,135	19,344	22,082	20,875	23,069	25,458	210,001
<b>2018</b>	15,797	19,177	23,859	19,105	19,663	21,676	19,398	26,348	20,439	20,201	24,060	20,689	229,842
<b>2019</b>	14,628	17,749	20,192	16,638	23,467	18,332	17,202	23,763	19,442	22,313	26,129	26,555	250,412
<b>2020</b>	31,948	36,439	28,175	18,266	22,281	17,473	21,071	18,823	17,933	24,790	19,767	23,209	246,410
<b>2021</b>	16,260	18,904	21,099	29,410	26,543	23,292	30,519	25,376	0	0	0	0	191,403
<b>Grand Total</b>	89,387	109,071	114,482	100,663	109,853	102,796	101,325	113,654	79,896	88,179	93,025	95,911	1,128,068



# **Safety Training Topics**

November 2021

Flame-Resistant Apparel

Epilepsy and Seizures

Compressed Air

Circuit Breaker Panelboards

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# SAFETY TRAINING TOPIC

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## Flame-Resistant Apparel

### STREET CLOTHES

Artificial fabrics such as nylon and polyester melt into the skin before igniting.

Fabrics melted into the skin make burns deeper and more severe.

Fabrics melted into the skin are extremely painful to remove.

Don't wear artificial fabrics on the job site.

Shirts, pants, underpants, socks, jackets, gloves, and hats are all items that should be made of a natural fiber, rather than nylon or polyester.

### FLAME-RESISTANT CLOTHING WEAR

Wear flame-resistant clothing when working on any equipment that is field-marked to warn of electric arc hazards.

Wear flame-resistant clothing when working on any equipment that may produce an arc blast. Essentially, this is all energized three-phase equipment that has contacts that open and close. If in doubt, ask your foreman for the flash hazard analysis of the equipment you will be working on, and find out what the flash protection boundary distance is for that equipment.

Flame-resistant clothing is made from special flame-retardant materials. Nomex is one of the most widely-recognized trade names of such materials.

Flame-resistant clothing protects you from arc flashes, not steady flame.

Flame-resistant clothing will not protect you if you decide, for example, to walk into a burning building. But, it does provide a high degree of short-term protection.

Flame-resistant clothing, if worn properly so that it is securely sealed, will provide a barrier between you and superheated plasma gas.

You must wear the other PPE appropriate to your job, along with the flame-resistant clothing. The only purpose of the clothing is to protect you from an arc flash.

Always wear safety glasses or goggles along with the flame-resistant clothing, even if you are wearing the flame-resistant hood and face shield.

Do not open or remove the flame-resistant clothing if you are within the flash protection boundary distance.

Keep in mind that an arc flash can happen at any time. It does not know whether you are taking a break or not. If you are standing in the path of an arc flash, what you are doing at the time doesn't matter.

## **FLAME-RESISTANT CLOTHING CARE**

Inspect your flame-resistant clothing before wearing it.

Give it the smell test, as well as a visual check. If it is not clean, you risk exposure to pathogens.

Look for tears or pinholes, as they can allow plasma through.

Look for stains or anything that may create an ionization path across or through the material.

Launder per manufacturer's instructions. It's best to use a surfactant or non-abrasive detergent (read the label) and reject detergents that contain wood pulp.

Do not launder flame-resistant clothing more times than the manufacturer allows.

When washing flame-resistant clothing, do not mix it with garments made of other materials. Doing so may contaminate the flame-resistant clothing with fibers from the other materials, and that could allow a breach of the suit under flash conditions.

Dry the suit immediately after washing and do so per the manufacturer's instructions. Any material left damp will degrade more rapidly than if dried properly. Also, material left damp will grow molds that can allow a breach of the suit under flash conditions.

## **REVIEW AND DISCUSSION**

- Why should you not wear nylon or polyester clothing on an electrical job?
- Are you wearing any nylon or polyester now? Have another crewmember read your shirt label, if need be.
- What will flame-resistant clothing protect you from? Not protect you from?
- When should you wear flame-resistant clothing?
- What should you do if you're unsure if the equipment you'll be working on requires flame-resistant clothing or not?
- Should you wear safety glasses with your flame-resistant clothing, even if you are wearing the flame-resistant hood and face shield?
- If it's hot and you need to take a break, can you stop work and open your flame-resistant clothing? Why or why not?
- What should you do before wearing flame-resistant clothing?
- What are some inspection considerations?
- How should you launder flame-resistant clothing, if the company doesn't handle laundering for you? What are some rules about washing these?

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# SAFETY TRAINING TOPIC

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## Epilepsy and Seizures

### WHO CAN HAVE SEIZURES

People with seizure disorders including, but not limited to, epilepsy.

- A person who has a fever not related to a seizure disorder.
- People with certain diseases, such as diabetes.
- People who are using pharmaceuticals, correctly or otherwise.
- People with no history of seizures.

### TYPES OF SEIZURES

A seizure is a condition where a person's nervous system is overwhelmed.

The grand mal seizure that most people associate with epilepsy is the most dramatic, but not the only, kind of seizure.

At the other end of the seizure spectrum is near comatose loss of consciousness. Seizures occur in varying degrees between these extremes, but are generally characterized as grand mal, petite mal, or psychomotor seizures.

### GENERAL SEIZURE RESPONSE

Call for help immediately and activate the Emergency Medical System. Remain with the victim until help arrives or until your foreman assigns someone to take your place. If you are the first on the scene, you are in charge until your foreman or emergency response personnel say otherwise.

Look for any blood, vomit, dentures, or other foreign bodies in the mouth of the victim. Do not attempt to remove them as long as the patient is breathing.

If the victim isn't moving, ensure the victim's airway is not obstructed. An easy test is to ask the victim a question. If the victim answers, the airway is open. If you don't get an answer, place your ear over the victim's mouth or nose and listen for exhalation.

If you are trained in CPR, you may need to administer it.

Make someone available to go with the victim if the victim goes to the hospital. You may need to provide separate transportation from the emergency vehicle. Someone will need to help with the victim's personal effects, admissions paper-work, and notification of family or others. That person may be the foreman or someone appointed by the foreman.

### REMOVING OBJECTS FROM THE MOUTH

Generally, by reaching in to pull an object out of the mouth, you are more likely to shove an object farther down the airway than to remove it. Medical personnel have suction equipment for removing such objects.

You can try the Heimlich maneuver if the victim cannot breathe with the object in place.

Clear secretions with a tissue, and try to keep the victim in a side-lying position to prevent choking.

The tongue is the most common airway obstruction. If the victim is lying on his/her back, use a chin-lift or gentle jaw thrust maneuver to raise the tongue. Do not hyperextend the neck.

### **IF THE VICTIM IS UNRESPONSIVE**

- Do not move the victim-the fall may have broken bones or done other damage.
- Do not give the victim water, until the victim is fully conscious.

### **IF THE VICTIM IS THRASHING ABOUT**

- Move hard objects, such as furniture, away from the victim to prevent further injury.
- Place pillows, cushions, or other soft objects around the victim.
- Do not attempt to restrain the victim. Don't even touch the victim if he or she is moving and still having the seizure.
- Do not yell at the victim to calm down. Seizure victims have no control over their seizure, and any excited action on your part will simply draw an unneeded crowd.
- Stay as calm as you can, and reassure the victim and others around.

### **REVIEW AND DISCUSSION**

- What are some rules about responding to active seizures?
- Who can have seizures? Are all seizures dramatic? When should you call for help?
- How long should you remain with the victim?
- What should you look for in the mouth of the victim?
- What should you ensure, if the victim isn't moving?
- Should someone be available to go with the victim? Why?
- How do you remove objects from the victim's mouth?
- What are some rules about responding to passive seizures?

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# SAFETY TRAINING TOPIC

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## Compressed Air

### DANGERS OF COMPRESSED AIR

A person took a blast of air at 80 PSI in a small wound on his hand. The air caused his arm to swell to twice its normal size, and left him with shooting pains from his fingers to his shoulder.

A blast of 40 PSI can rupture an eardrum from four inches away. It can also cause a fatal brain hemorrhage.

Air at 12 PSI is enough to pop an eyeball out of its socket.

Air at 4 PSI can rupture your bowels. Don't ever "goose" somebody with an air hose.

Compressed air entering through the mouth can rupture lungs and other internal parts.

Using compressed air to blow dust or other debris off your clothing can actually drive it under your skin. This can result in an embolism and a painful death.

### CAUTIONS

Wear safety glasses whenever using air tools.

Before operating an air tool, take a quick look at the hose and fittings, to spot anything obviously wrong. If the hose is excessively cracked or worn, take it out of service.

When using compressed air for cleaning, use a pressure-limiting device that limits the nozzle pressure to 30 PSI. You can operate such a device in conjunction with a tank or pipe pressure of 80 PSI or higher. These devices are usually point of use regulator sets complete with a moisture trap.

Hold the nozzle when turning the air on and off. Otherwise, it may dislodge, jump, or in some other way go where it's not supposed to go.

Never kink an air hose to stop the airflow. That's the job of the air valve.

Don't patch a leaking hose with duct tape. You can replace the hose, or you can repair the leak by cutting out the bad section and joining the hose back together with a connector and clamps.

Keep air hoses out of aisles, if possible. If not possible, use a guard over the hose to protect it.

If you have a choice of nozzles, obtain the one with barrel holes perpendicular to the shaft, rather than one with a solid barrel. This is called a safety nozzle. The barrel holes release the pressure from the nozzle, if the tip is covered by any- thing-such as a body part.

Don't point the nozzle at other workers.

## **PORTABLE AIR COMPRESSORS**

While it's unlikely you will be responsible for a plant air system, you may be responsible for a portable air compressor for use with power tools. A portable compressor has its own special requirements.

When loading it in the truck, don't set it on top of the hoses.

### **THE LIFT**

Stow the compressor securely, just as you would other tools, for transportation.

Consider the bending radius of the hoses-rolling them up too tightly will damage them.

Check the hoses and fittings before first use-hoses may have been damaged or fittings may have loosened during transit. Use the safety clips at connections.

Use a heavy cord to power it, and route it to avoid tripping hazards.

You know to use the right power source, but a qualified "helpful" person on the site could jury-rig things and hook you to the wrong source. Take care of the power yourself, to avoid this problem.

You most likely would bring extra lengths of air hose to the job site. Be sure to manage any excess hose so it doesn't create a tripping hazard.

### **REVIEW AND DISCUSSION**

- What are some things that compressed air can do to the human body?
- Why should you never "goose" someone with an air hose?
- Why should you never use an air hose as a brush for cleaning debris off your clothes?
- What should you always wear, when using air tools?
- Why should you hold the nozzle when turning the air on or off?
- What is a safety nozzle, and how does it work?
- If you have a leaking air hose, should you duct tape it? Why or why not? If not, what should you do instead?
- How tightly should you coil the air hoses, when taking a portable compressor from job to job?
- Why should you check hoses and fittings before first use after transporting a compressor?
- Why should you handle the power for the compressor yourself, rather than letting the customer or some other person of unknown qualification do it?

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# SAFETY TRAINING TOPIC

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## Circuit Breaker Panelboards

### WHY THIS IS IMPORTANT

Working in energized panelboards poses a shock and flash risk to the installer.

With today's 24/7 operations, it is unlikely you will be able to de-energize a panel, unless it is a new installation.

### INSPECTION

Before removing the covers from an energized panelboard, note the position of each branch circuit breaker.

If any circuit breaker is in the tripped position for no apparent reason, notify your foreman before proceeding with work.

The two preceding steps may prevent you from being wrongly accused of knocking down a branch circuit, or from inadvertently causing harm by closing a breaker that is on a faulted circuit.

Note the rating and type of circuit breakers the panelboard will accept. Verify the circuit breaker you are installing will fit in the panelboard.

Before adding breakers, verify that the interrupt rating of each circuit breaker to be installed exceeds the available fault current at the panelboard. Do not install a circuit breaker that does not meet or exceed the available fault current in the panelboard.

The available fault current at any location in the facility is generally not posted, but you can make a quick check by looking at other breakers in the panelboard. Question installing a breaker rated at 10 KAIC in a panelboard full of breakers rated at 25 KAIC.

### COVER REMOVAL & REPLACEMENT

Removing and replacing panelboard covers is a two-person job.

Store all screws, bolts and other hardware used to secure the covers so they will not be lost. Replace any missing hardware with equivalent devices. The hardware that holds covers in place is designed to keep the covers from blowing off should a fault occur in the enclosure. Missing hardware may allow a door or panel to become a projectile in a fault condition. The result may be the loss of life, limb and property.

If you open a circuit breaker accidentally, do not reset it. Notify your foreman or the operations people immediately. You may do more damage by resetting a breaker than by leaving it open.

## **RACEWAY, WIRE AND TERMINATIONS**

The installation of new circuits often requires you to drill holes in the enclosure for new raceway fittings. Careful drilling, with proper covering and catch materials, will prevent metal chips from falling on energized bus.

Use knockout punches where possible to prevent burrs.

Use a small magnet to remove metal shavings from the enclosure.

Metallic raceway is part of the grounding system. Tighten the locknut so the connection is snug.

Carefully install conductors into raceway to prevent nicks and other damage to insulation. Replace the conductors if the insulation is damaged. If unsure, perform an insulation resistance test.

Do not install more than one conductor under a lug or termination. Install additional ground or neutral bus bars as required to meet conductor requirements.

Do not allow loose strands of conductor to "stick out" from termination.

Update the panel circuit directory to reflect new work.

If you remove circuits, place the affected circuit breakers in the "OFF" position and label the circuit breaker as "SPARE" on the panel circuit directory.

## **REVIEW AND DISCUSSION**

- Why is it important to document tripped and "OFF" circuit breakers before removing panel covers?
- When should you reset a circuit breaker that you have accidentally knocked open?
- How many people does it take to remove a panelboard cover?
- How many people does it take to work in a panelboard?
- Should you be concerned if some of the panelboard fasteners are missing?
- What are some concerns about making holes in enclosures?
- When should you double up conductors under a single lug?
- When removing old circuits, what do you do with the circuit breaker?
- Is it acceptable to terminate neutral conductors on the ground bus?
- If a wire is nicked, what color of electrical tape should you use to conceal the damage? Or, should you use tape at all? Why or why not?

# Safety

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October 1, 2021

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## Cutting corners triggers vapor explosion: CEO headed for jail

### ■ Exec's safety shortcuts land him in hot water

Environmental health and safety should never take a back seat to making a profit!

The former president of an oil waste reclamation plant learned that lesson the hard way.

Peter Margiotta, 64 years old, just started an 18-month sentence in a federal prison after being found guilty of multiple criminal violations of the Clean Air Act (CAA).

#### Profits trumped process safety

Rushing to get up and running before all the T's were crossed and I's dotted landed three of his former

employees in the hospital and blew up a sizable chunk of his plant.

Custom Carbon Processing was wrapping up construction of a disposal well and oil reclamation facility in Wibaux, WY.

But there was still a lot more work to do before the plant could accept and treat shipments of highly volatile and flammable drip gas from fracking operations in the surrounding Bakken Formation.

Each day the plant sat idle meant a loss of profits to Margiotta. So he decided to open the facility before all necessary wiring and ventilation could

*(Please see Cutting corners... on Page 2)*

### PANDEMIC

## OSHA to require employees get COVID vaccinations

OSHA has been directed by President Biden to develop a new rule requiring all employers with 100 or more employees to ensure their workers are either fully vaccinated against COVID-19 or getting tested weekly before coming to work.

The directive is part of a new plan to combat the coronavirus.

OSHA would issue a new emergency temporary standard (ETS) to implement the requirement, which would impact more than 80 million workers in private sector businesses, according to the White House's "Path out of the pandemic" action plan.

In a speech Sept. 9, President Biden pointed out that the "unvaccinated minority 'can cause a lot of damage, and they are,'" the *Associated Press* states.

Critics point to the certainty that

there will be legal challenges ahead for this ETS.

But some experts feel the president already had the legal authority to impose vaccine requirements on private employers through OSHA, according to *The New York Times*.

#### Mandate for federal workers

Another part of the president's plan involves a vaccine mandate for all federal workers and contractors.

The contractor mandate applies to any new contracts, solicitations, extensions, renewals and exercises of an option for an existing agreement.

Another workplace element of the plan includes vaccine mandates for about 17 million healthcare workers in hospitals, clinics and other facilities that accept Medicare and Medicaid payments.

## MULTI-EMPLOYER SITES

### COURT DECISION

## Judge upholds \$145K fine for contractor

A \$145,000 OSHA fine issued to a Colorado roofing contractor was upheld Aug. 26 by a federal administrative law judge (ALJ).

The contractor was accused by OSHA of repeatedly ignoring requirements to protect its employees and subcontractors from workplace falls.

An April 2019 inspection found Premier Roofing LLC failed to conduct site safety inspections and repeatedly exposed its employees and workers from subcontractor M&M General Construction LLC to fall hazards at a large Aurora roofing project, according to a Department of Labor news release.

### History of violations

Premier Roofing was fined \$90,860 for similar violations in 2016, along with its subcontractor at the time, Walter Construction LTD, which was fined \$16,800.

Both Premier Roofing and M&M

received repeat citations following the recent inspection.

M&M settled its penalties in 2019, and Premier Roofing contested its citations to the Occupational Safety and Health Review Commission.

The ALJ affirmed the citations and ordered the company to pay a \$145,858 OSHA fine.

### Cutting corners ...

(continued from Page 1)

be installed.

The project manager balked at the decision in an email to Margiotta:

"The control panels must be moved ASAP with the explosion-proof wiring. We also run the risk of killing someone, not only our operators but also customers."

### Prophetic warning went unheeded

The foreman repeatedly warned the natural gas condensate they were using to thin slop wasn't effective, and that flammable vapors could ignite.

In addition, hydrocarbon vapors, extremely hazardous substances and air toxics would be released.

Margiotta disregarded the warnings, and during a delivery of natural gas condensate, flammable vapors from the material filled the plant and spread out through the open bay doors where the truck making the delivery was located.

An ignition source sparked and triggered an explosion. Three employees suffered injuries. Parts of the building as well as the loading dock and truck were nearly torn apart.

Luckily no one died.

The Department of Justice said Margiotta "ignored warnings and knowingly put his employees and the public at risk," highlighting "the importance of a risk management program that protects public health and the safety of our communities,"

Margiotta faced up to 15 years in prison for three CAA charges, but the judge sentenced him to 18 months.

## 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.*

### ■ WAS COMPANY NEGLIGENT IN WORKER'S FALL INJURY?

*Wow, I'm in a really good mood, Safety Manager Pete Travers mused while sitting in his office.*

*It's almost fall, he continued. That means pumpkin spice coffee, apple cider and Halloween, my favorite holiday.*

Company attorney John Jenkins stepped into the room.

"I'm going to guess you don't like pumpkin spice coffee," Pete said.

John smiled without mirth. "No," he replied. "I do not."

### Stood on a bucket

"An employee is suing us," John said. "He says he was injured in a fall that wasn't his fault."

"He's claiming it was our negligence that led to the fall," John continued.

"Ah, yes, Michael Schaefer," Pete said. "He couldn't find a stepladder to do his work, so he stood on a 5-gallon bucket instead."

"Are you kidding me?" John asked.

"No, not at all," Pete replied.

"We have rules in place about ladders, and none of them recommend standing on a bucket if you can't find one."

"He did claim he saw his supervisor do the same thing before, so I had a talk with the whole crew about ladder safety and the fact that buckets are not an adequate alternative to a ladder," Pete said.

"Then we should be able to fight this since it was obviously his fault," John said.

Pete's company tried to get the case dismissed. Did it succeed?

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

### Safety COMPLIANCE ALERT

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## WHAT'S COMING

### ENFORCEMENT

## Company to pay whistleblowers \$667K

### ■ EMPLOYER MUST PAY WORKERS FIRED FOR REPORTING SAFETY CONCERN

Two employees were allegedly fired after reporting an unsafe condition at work, and OSHA has ordered the company to pay a big financial price.

OSHA ordered CSX Transportation Inc. to pay more than \$667,000 to two employees the agency claims were fired after reporting a blue flag that signaled their train couldn't move safely.

Blue signals show workers are on, under or between railroad rolling equipment. When they're displayed, the equipment may not be moved, according to federal Department of Transportation rules.

The two workers were at a rail yard in Waycross, GA, in November 2017 when they reported the unsafe condition.

### Penalties add up

An OSHA investigation found CSX retaliated against the workers in violation of whistleblower regulations.

OSHA says CSX pulled the workers off their jobs and later fired them.

CSX is ordered by OSHA to:

- pay the employees \$667,740 plus attorney fees to cover back pay from the time of their removal to September 2019
- pay costs incurred by the workers, including interest on back wages, penalties on withdrawals from their 401(k)s, and compensatory and punitive damages
- restore both workers' seniority and benefits they would have received, and
- provide retirement credit, vacation time and personal days they would have earned.

This is the third OSHA whistleblower finding in 10 months related to CSX retaliating against workers who reported safety concerns.

In July 2021, OSHA ordered CSX to pay \$221,976 in back wages, interest and damages to a worker fired in New Orleans for reporting safety concerns.

In October 2020, OSHA ordered CSX to reinstate an employee and pay more than \$95,000 in back wages and \$75,000 in punitive damages after a worker in Rebecca, GA, reported an unsafe gate and an injury.

### PANDEMIC

## NSC calls for employer COVID-19 vaccine mandates

The National Safety Council (NSC) is calling on all U.S. employers to mandate COVID-19 vaccinations, which the organization says are the "only recourse to combat the Delta variant and adapt to an evolving pandemic landscape."

All employers are urged to implement COVID-19 vaccination requirements for their workers, and the NSC has introduced guidance outlining four levels of requirements for various workplace risk profiles.

Vaccines are the "clearest route to ensuring worker safety and wellbeing" in the workplace, according to an NSC news release.

When employers required vaccines, there was a 35% increase in workers

who got the shot, the organization found through a recent survey.

### More info on the way

The guidance follows the Food and Drug Administration's recent formal approval of the Pfizer-BioNTech COVID-19 vaccine, which replaces the emergency use authorization granted by the agency last December.

Full approval could make it easier for employers to require vaccinations and may reassure some people who are hesitant about getting the vaccine, the NSC states.

More information on encouraging vaccines, addressing vaccine hesitancy and testing in the workplace will be released later in 2021.

## TRENDS TO WATCH

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

### ■ COURT FINDS COMP AGE RESTRICTION CONSTITUTIONAL

The Kentucky Supreme Court affirmed an appeals court decision upholding the constitutionality of a 2018 amendment terminating workers' comp income benefits once a recipient reaches 70 years of age or four years from the injury date.

The Aug. 26, 2021, decision was in response to two consolidated workers' comp appeals from Cheryl Cates and Ronnie Bean, injured workers who questioned the constitutionality of the amendment.

Cates and Bean claimed the amendment was unconstitutional because it discriminates based on the recipient's age, and was unconstitutional special legislation because it applied only to older recipients.

The Supreme Court agreed with the appeals court ruling that there was a legitimate state interest in preventing workers' comp recipients from receiving duplicate payments in the form of retirement benefits.

Like the appeals court, the Supreme Court also rejected the special-legislation challenges finding the statute treated all older recipients alike.

### ■ DEPT. OF HEALTH ACTIVATES HERO ACT FOR COVID-19

New York's Health and Essential Rights (HERO) Act was activated Sept. 6 by the state's Department of Health when the agency declared COVID-19 highly contagious and a danger to public health.

Employers must now review their worksite exposure prevention plans; activate the protective measures in the plan, including mandatory screening, social distancing and masking; and provide employees with verbal and written notice of their exposure prevention plans, according to law firm Morgan Lewis.

# WHO GOT FINED – AND WHY

## Roundup of most recent OSHA citations

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

### Air compressor explosion kills 1, injures another

Cal/OSHA cited a company after an employee was killed when a pipeline on an air compressor exploded.

One employee was setting up the compressor when one of its pipelines exploded, causing debris to hit two nearby employees, killing one and injuring the other.

**Fine:** \$108,300

**Company:** Sierra Pacific Industries, Lincoln, CA

**Business:** Manufacturer of wood preservation products

**Reasons for fine:**

*Three serious accident-related violations for failure to:*

- test discharge piping prior to operating compressor and ensuring proper connection
- ensure pressure relieving safety device was installed in line between compressor and block valve
- ensure all pressure piping for compressors was designed in accordance with good engineering practices

*Three serious violations for failure to:*

- ensure energy within pipeline system was controlled to prevent release during repair
- ensure group lockout/tagout procedures were used
- ensure employees worked under supervision of qualified individual

### Company slapped with willful COVID violation

Many companies OSHA has hit with coronavirus-related fines have been mostly in the healthcare industry. This fine shows other types of companies aren't immune from stiff fines for COVID violations.

OSHA opened its investigation following a referral from the Division of Labor Standards of the Commonwealth of Massachusetts Executive Office of Labor and

Workforce Development.

**Fine:** \$136,532

**Company:** Ariana Murrell-Rosario, dba Liberty Tax Service, Lynn, MA

**Business:** Tax preparation services

**Reasons for fine:**

*One willful violation of the General Duty Clause, including:*

- prohibiting employees and customers from wearing face coverings in the workplace despite a statewide mask order
- requiring employees to work within six feet of each other and customers while not wearing face coverings
- failing to provide adequate means of ventilation
- failing to implement controls such as physical barriers, pre-shift screening of employees, enhanced cleaning and other methods to reduce the potential of person-to-person transmission of the coronavirus

### Mixing machines not locked out for cleaning

An Alabama spice importer was cited by OSHA after inspectors found several lockout/tagout and machine guarding violations.

A complaint led to the inspection, which revealed workers were allowed to clean mixing machines without using lockout/tagout devices and failed to use proper machine guarding on the mixers.

**Fine:** \$121,511

**Company:** iSpice LLC, Jackson, AL

**Business:** Spice and extract manufacturing

**Reasons for fine:**

*Three repeat violations for failure to:*

- develop and use procedures for control of potentially hazardous energy
- provide training to ensure employees understood energy control program
- protect conductors entering cutout boxes from abrasion

*Seven serious violations, including failure to:*

- take defective or unsafe powered industrial trucks out of service
- ensure outlet boxes had covers or faceplates

## WORKERS' COMP DECISIONS

### Injured getting car keys after end of shift: Benefits?

Can an employee injured when he walked back into the jobsite for his keys collect benefits?

**What happened:** A construction worker finished his shift, but realized he left his car keys on the second floor of the unfinished building. He used an aerial lift to go up and get them, but was injured when the machine malfunctioned.

**Company's reaction:** Getting your keys was not work-related.

**Decision:** He couldn't collect.

The court found he was not engaged in a work activity when the injury occurred.

**Cite:** *McKnight v. Metro-North Railroad*, NY Court of Appeals, No. 2019-05021, 3/3/21.

### Worker retires after series of injuries: Can he collect?

A retired worker suffered a series of back injuries at the end of his career. Can he collect benefits?

**What happened:** The worker spent his entire career performing physical labor until multiple back injuries took their toll. He took what amounted to a light-duty position, but even that eventually caused him pain.

**Company's reaction:** You refused light-duty work we offered to you, so you can't collect.

**Decision:** He could collect. The court found the worker initiated the request for a light-duty job, and only quit when the pain became unbearable, which meant it was no longer a suitable accommodation. The employer didn't offer evidence it had a less physically intensive job available.

**Cite:** *City of Guntersville v. Looney*, AL Court of Appeals, No. 2190773, 3/12/21.

## REAL PROBLEMS, REAL SOLUTIONS

## OSHA officer: Why VPP is important to me

When I was in my fifth year as a supervisor in an OSHA enforcement office, we had what was unfortunately a relatively routine case involving a contractor.

An employee was on the third level of a scaffold doing plaster work on a residential construction site when he fell, broke his neck and was killed.

This was the company's first ever involvement with OSHA.

We gave them an abatement process to follow so this wouldn't happen again.

Nine months later, two of the company's workers were ejected from an aerial lift. Neither of them were wearing fall protection and they fell to their deaths.

Months later, the company's safety manager came into the office for an informal conference. They had three fatalities in less than a year.

**'Not our fault'**

He looked me right in the eyes and said, "You can't hold us responsible for hiring stupid people."

It was at that point in my career that I reached a crossroads.

I knew enforcement was important, but it was no longer right for me. I didn't feel like I was making a difference anymore.

That's when I got an email that the former area Voluntary Protection Program (VPP) manager was leaving.

As an area manager in the VPP program, I get to put away the standards books – those are minimums.

I get to work with people who put employee safety and health at a very high level of importance.

Program members have a commitment to excellence in safety, which asks them to go above and beyond what the law requires.

**Commitment from leaders**

The agency expects commitment from an organization's leaders.

You've got to actively lead by example. It's not enough just to say, "Go be safe."

You can't point to the "safety first" banner and say, "That's our mantra."

You have to live it. You have to be the one out there demonstrating it.

The best leaders are the ones who walk the talk, live the culture and are willing to write the check for the resources required to be excellent.

And you make the proper decision when you're faced with an opportunity, and I use the word "opportunity" very carefully.

For example, let's say you've come from a culture where it's been production first and you're fortunate enough to have an employee who stops work for a safety concern. That's an opportunity for you to set the example and default to a safety decision.

**What about employees?**

The vast majority of employees in this country go to work, punch in, do their job, punch out, and if they go home safe, it is strictly the result of statistical noise.

They really had nothing to do with it and weren't actively involved.

If you're fortunate enough to be an employee in a workplace that's committed to the VPP, you get the opportunity to have an active, meaningful, constructive opportunity to participate in safety and health every day.

Their voices are heard in the program, but only if they'll use them.

Employees have to stand up and be involved. One reason EHS people love VPP is because it takes them out of that role as safety cop and puts them into the role of safety resource.

Now every employee is the safety cop. They become their brother's keeper. They're deputized to keep themselves and their co-workers safe on the job.

It's not every workplace that gives their employees that opportunity.

*(Based on a presentation by Brad Baptiste, OSHA Regional VPP Manager, Parker, CO, at the 2021 VPPPA Safety+ National Symposium)*

## TRAINING TIPS

**Generators: Helpful tools with the potential to kill**

Generators can be real life savers in the wake of a natural disaster such as a hurricane or blizzard.

However, they also come with quite a few serious hazards, including:

- electrocution from improper use of power or accidental energizing of other electrical systems
- carbon monoxide from the exhaust
- fires from improper refueling, and
- noise and vibration.

Make sure a generator is properly grounded before use.

Always keep generators dry. Protect them from rain with a canopy if their use is required in wet conditions.

Never use generators indoors to keep workers safe from carbon monoxide exposure.

And always shut down a generator and let it cool off before refueling to avoid potential ignition hazards.

**Warehouse worker killed in fall: Failed to use PPE**

No matter what industry you're in, if you're working at heights you need fall protection. But many workers fail to realize this if they're working outside of construction.

One warehouse worker will never get a second chance to learn this lesson, as he fell 15 feet to his death after struggling to move some cabinets stored on elevated racks onto his forklift's pallet.

After he fell, the cabinets fell on top of him, according to OSHA, who fined the company for the lack of fall protection.

Co-workers found him under the cabinets and he was taken to the hospital, but died later the next day.

## SETTLEMENT

## Company pleads guilty in arsenic incident, agrees to OSHA fine

A Montana company accused of exposing employees at its Anaconda plant to high levels of arsenic admitted that it had violated the Clean Air Act and has agreed to settle a civil case with OSHA regarding related safety and health violations.

U.S. Minerals Inc. pleaded guilty Aug. 23 to one misdemeanor count of negligent endangerment under the Clean Air Act and faces a maximum penalty of five years of probation and a fine that has yet to be determined.

### Plea agreement

Under the terms of a plea agreement, the federal government and U.S. Minerals will jointly recommend the company be placed on probation for five years and pay a \$393,200 fine.

The government accused the company of negligently releasing inorganic arsenic into the air from July 2015 until February 2019 and exposing its employees to the hazardous air pollutant, which is known to cause serious health problems, including lung and skin cancer.

The agreement recommends U.S. Minerals, as part of its probationary conditions, implements a:

- national environmental health and safety plan for all of its facilities, and

- medical monitoring program for current and former employees exposed to elevated levels of arsenic during their work at the Anaconda plant.

### OSHA settlement

U.S. Minerals also agreed to resolve a related civil case with OSHA regarding 19 serious health and safety violations at the Anaconda plant and a \$106,800 fine.

Under the agreement, the company will accept all citations as issued and pay the fine.

## Final rule clarifies whistleblower provision

OSHA published a final interpretive rule Sept. 3 changing a prior rule interpreting its whistleblower provision.

This rule went into effect Sept. 3 and clarifies the causal connection between the protected activity and the adverse action described in 29 CFR 1977.6.

What changed exactly? The rule's Federal Register entry says it was meant "to clarify that the test for showing a nexus between protected activity and adverse action

is 'but-for' causation."

The change brings the interpretation in line with prior Supreme Court decisions in *Gross v. FBL Financial Services, Inc.*, *Univ. of Tex. Sw. Med. Ctr. v. Nassar*, and *Bostock v. Clay County, Georgia*.

## Respirators for use against COVID exposure

When it comes to respirators for protection against COVID-19 exposure, the N95 is the most widely available that has approval from the National Institute for Occupational Safety and Health (NIOSH).

However, there are other types – N99, N100, P95, P99, P100, R95, R99 and R100 – that offer the same or better protection as an N95.

When supplies are available, an N95 or one of the other respirators listed can be used instead of a mask, in some situations. CDC recommends that special N95 respirators labeled as "surgical" or "medical" should be prioritized for healthcare providers.

An OSHA video on how to put on and seal test a respirator can be found at [youtube.com/watch?v=Tzpz5fko-fg](https://www.youtube.com/watch?v=Tzpz5fko-fg)

## SHARPEN YOUR JUDGMENT – THE DECISION

(see case on Page 2)

No, the company failed to get the case dismissed in this New York labor law claim.

The worker presented triable issues over whether it was solely his own conduct that caused his fall and injury.

While the company argued the incident was the worker's fault for standing on the bucket, the fact of the matter was that the company had no rules specifically against it.

Further, there was the issue regarding the supervisor who the worker observed doing the same thing, which turned out to be on more than one occasion.

Between the lack of evidence of a company "don't-stand-on-a-bucket" rule and the worker's testimony

regarding what he witnessed his supervisor do, the court found enough reason to allow the case to proceed to trial.

### ANALYSIS: SUPERVISOR BUY-IN IS IMPORTANT

Supervisor buy-in is extremely important to safety.

When a worker sees a supervisor repeatedly performing unsafe acts, the worker is very likely to do the same thing because either they see they can get away with a shortcut, or maybe they think the supervisor expects them to follow suit to save time or resources.

And while we're on the subject of resources, it's also important to make sure employees have what they need to do their job safely. If this worker would've had a ladder, he probably wouldn't have gotten injured.

**Cite:** *Portillo v. DRMBRE-85 Fee LLC*, NY Court of Appeals, No. 152890/17, 2/25/21. Dramatized for effect.

## FEDERAL ACTIVITIES

### 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](https://www.safetycompliancealert.com/category/federal-activities).

#### MINE SAFETY

A new rule proposed by MSHA would require mine operators employing six or more miners to implement a written safety program for mobile and powered haulage equipment, including actions to identify hazards and risks, to reduce accidents, injuries and fatalities related to this type of equipment.

Operators would be allowed the flexibility to devise a safety program for their specific mining conditions and operations, according to a Department of Labor news release.

The proposed rule states that the written safety program would:

- list actions that mine operators would take to identify hazards and reduce risks, develop equipment maintenance and repair schedules, evaluate technologies and train miners
- require operators to evaluate and update the written safety program whenever necessary to manage safety risks associated with their surface mobile equipment, and
- not cover belt conveyors.

Accidents at mines are on the decline, but those involving mobile and powered haulage equipment – such as bulldozers, front-end loaders, skid steers and haul trucks – are still a leading cause of fatalities in the industry, according to MSHA.

Of the 739 fatalities that occurred at U.S. mines between 2003 and 2018, 109 were caused by hazards related to working near or operating mobile and powered haulage equipment at mines with six or more miners.

#### TEEN WORKERS

An Alabama shoe store has to pay more than \$37,000 in fines

for child labor law violations, including allowing minors to load active trash compactors.

Journeys Shoe Store is accused of allowing teen workers to place trash in an active compactor and requiring those employees to drive at night as part of their job duties.

Both of these activities are violations of federal child labor restrictions, according to a Department of Labor news release.

The violations led to a \$37,280 fine.

#### VACCINE ETS

Shortly after President Joe Biden's announcement regarding an upcoming emergency temporary standard (ETS) requiring employers with 100+ employees to mandate vaccinations or weekly COVID-19 testing, OSHA has released more information on the standard.

In a brief press conference, the agency provided a few extra details about the ETS, but there are still a number of missing details.

First, the ETS will be issued in the "coming weeks," but they don't know how many weeks, according to law firm Shawe Rosenthal.

Second, keep in mind that this ETS isn't written yet, so all of this is subject to change.

These are the questions OSHA answered during the press conference:

- **How are the 100 employees counted?** Company-wide, not by location.
- **Will the ETS apply to fully remote employees?** No, but if those remote workers do come into the office on occasion or work with others in the remote location, then the requirements will apply.
- **Can an employer require vaccination without the testing option?** Yes.
- **What if an employer is covered by another ETS or other rules?** Employers must comply with all applicable rules, orders and standards, but the agency claims they will all be consistent with each other.

#### WHERE TO GET HELP

##### WEBSITE HAS COLLECTION OF LINKS TO SAFETY VIDEOS

The Texas Department of Insurance has collected a large list of links to safety videos from a variety of different government, educational and safety organizations.

The videos cover everything from agricultural safety to young worker safety and hundreds of other topics in between.

The first page of results alone covers:

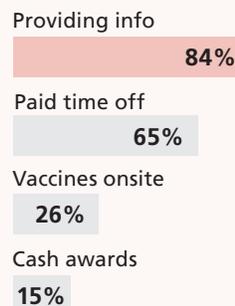
- batteries
- chemicals
- ergonomics
- pallet jacks, and
- propane.

Most of these videos are hosted on YouTube.

**More information:** [tinyurl.com/SafetyVideos626](https://tinyurl.com/SafetyVideos626)

#### What safety officers told us

How are most employers encouraging their workers to get COVID-19 vaccinations?



Source: [Littler.com](https://www.littler.com)

Providing info about the benefits of a vaccine – and the dangers of not receiving one – is more useful than cash incentives, which tended to only work on people on the fence.

*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."

### Supervisor claims worker is abusing company's 'safety stop' policy

#### The Scenario

Manager Mike Kelly was deeply immersed in his monthly reports when there was a sudden knock at his office door.

He jumped, nearly knocking over a nearby glass of water.

Shouldn't have watched that new horror flick last night, Mike thought, amused with himself.

"Come in," Mike called out.

Supervisor Jack Hall opened the door. He didn't take a seat.

"I have a problem, Mike," Jack said. "Bob Harsch is abusing the 'safety stop' policy."

#### 'He's nitpicking'

"What do you mean Bob's abusing the policy?" Mike asked.

"Well, he's constantly calling for stops over what he calls 'safety

concerns,' but I think he's doing his best to keep himself and his buddies from having to work," Jack said.

"What makes you think that?" asked Mike. "Bob's a pretty good employee."

"Because he's nitpicking, Mike," Jack said, his irritation rising to the surface.

"He questions everything," Jack added. "Just before I came to you, I asked him to use his forklift to drop down a pallet of product, and he comes back and says, 'I'm calling a safety stop because it's not safe.' It's his job, for Pete's sake, and I've got product to move!"

"Did he explain why it wasn't safe?" Mike asked.

"No, he didn't," Jack replied.

*If you were in Mike's shoes, what would you do?*



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

#### Reader Responses

##### 1 Donald Hossli, Safety Manager, Red Monkey Foods, Springfield, MO

*What Donald would do:* I'd check the management system first. The SOP should have a stepped response clearly calling out what's required.

*Reason:* We use the term "imminent risk" that death or serious injury will take place immediately. If the situation doesn't meet the definition, there's a methodology for looking over the safety concern in short order.

##### 2 Harley Riddle, HR and Safety Manager, Schmuhl Brothers Inc., Kansas City, KS

*What Harley would do:* If the employee calls a safety stop, then they have to have a realistic reason why it

isn't safe. If it isn't a good reason, the supervisor needs to be able to explain why it isn't a good reason.

*Reason:* "Slowing down productivity" is not a valid argument for being a good reason. Conversely, if the safety stop isn't valid or backed up by the SOP, then a deeper dive into why they aren't wanting to work is needed.

##### 3 Douglas Stinson, EHS Coordinator, Von Roll USA, Schenectady, NY

*What Douglas would do:* I would request a review on when each safety stop is done. In the long term, you should have a policy on that anyway.

*Reason:* Anytime a safety stop is performed, you should have an investigation to find out what it was for and if it fits the parameters of the written program. If it doesn't, re-educate the employee on what constitutes a safety stop.

#### OUTSIDE THE LINES

##### TIKTOK BANS DANGEROUS MILK CRATE CHALLENGE

As a safety pro, I'm sure you've wondered what an injured worker was thinking at the time of injury.

Doctors were thinking the same thing about patients injured while performing the recent "milk crate challenge" on TikTok.

"The challenge involved people stacking up walls of milk crates and walking over them, sometimes resulting in physical injuries," according to *USA Today*.

TikTok has since banned videos of the challenge following warnings from doctors and concerned users.

The platform encourages "everyone to exercise caution in their behavior whether online or off," it said in a statement.

So if you want to be the next Steve-O (remember *Jackass* on MTV?), maybe try Twitter.

#### Did you know ...

##### Use portable ladders only for their intended purpose



Stepladders and extension ladders shouldn't be used for anything other than what they were designed for.

Source: OSHA

Portable ladders shouldn't be used, for example, as support for improvised scaffolding. They also shouldn't be fastened together into longer sections, unless designed to do so.

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

# Safety

## COMPLIANCE ALERT™

Get more online:

- Training Shops
- Safety Checklists
- Scenario Responses



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

October 15, 2021

### 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

Loading docks



#### Checklist

Employee drug use



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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Analysis enough to keep workers safe on jobsite?

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#### 6 Safety Regs Update

Federal contractor COVID-19 vaccination deadline: Dec. 8, 2021

#### 8 Answers to Safety Questions

Dotting the i's and crossing the t's of mandatory vaccination programs

## OSHA steps up inspections to protect workers from high heat

### ■ National Emphasis Program will guide enforcement

OSHA has announced measures, including enhanced enforcement, to protect workers from the hazards of extreme heat – outdoors and indoors.

OSHA is:

- implementing an enforcement initiative on heat-related hazards
- developing a National Emphasis Program on heat inspections
- launching a process to develop a new workplace heat standard, and
- forming a National Advisory Committee on Occupational Safety and Health Heat Injury and Illness Prevention Work Group to share best practices to protect workers.

The enforcement initiative applies to outdoor and indoor workers in general industry, construction, agriculture and maritime on days when a recognized heat temperature can result in increased risks of heat-related illnesses.

#### What inspectors will do

On those days, OSHA will increase enforcement by:

- prioritizing inspections of heat-related complaints, referrals and employee-reported illnesses
- instructing OSHA inspectors to intervene by providing guidance

*(Please see Inspections ... on Page 2)*

### EMERGENCY TEMPORARY STANDARD

### Some details on OSHA COVID-19 vaccine requirement

OSHA has released a bit more information on its upcoming emergency temporary standard (ETS) requiring employers with 100+ employees to mandate vaccinations or get weekly testing.

First, the ETS will be issued in the “coming weeks,” but they don't know how many weeks.

Second, keep in mind this ETS isn't written yet, so all of this is subject to change.

These are the questions OSHA answered during the press conference:

- **How are the 100 employees counted?** Company-wide, not by location.
- **Will the ETS apply to fully remote employees?** No, but if those remote employees do come into the office on occasion or work with others in the remote location then the requirements will apply.

- **Are reasonable accommodations required for medical and religious needs?** Yes. The normal interactive process to determine exemptions will still need to be conducted.
- **Can an employer fire an employee for refusing to get vaccinated or tested?** It's up to the employer to determine how to enforce the requirement as employee disciplinary action is something OSHA won't get involved with.
- **Can an employer require vaccination without the testing option?** Yes.
- **What if an employer is covered by another ETS or other rules?** Employers must comply with all applicable rules, but the agency claims they will all be consistent with each other.

## CRIMINAL CHARGES

### ENFORCEMENT

## Contractor pleads guilty in fatal incident

A Pennsylvania contractor pleaded guilty in federal court Sept. 24 to willfully violating an OSHA regulation resulting in the death of a worker.

Insight Pipe Contracting LLC, a Butler County contracting company, pleaded guilty to violating a federal regulation requiring vehicles or mechanical equipment with elevating structures to maintain 10 feet of clearance around energized power lines.

### Probation and \$20K fine

The company must pay a fine of \$20,000 and serve a probationary term of three years under the terms of its plea agreement, according to a Department of Justice news release.

An Insight crew was installing pipe-liner at a worksite April 12, 2018, when a piece of equipment with the features of both a forklift and a crane – called a telehandler – struck overhead lines as its operator was removing a large roll of liner

from a truck.

As the telehandler made contact with the energized power lines, an employee had his hand on the vehicle's door, attempting to get the driver's attention, and was electrocuted.

Earlier this year, Insight paid a \$180,000 OSHA fine for violations stemming from this incident.

## Inspections ...

(continued from Page 1)

or opening an inspection when they observe workers performing strenuous work in hot conditions, and

- expanding the scope of other inspections to address heat-related hazards.

In October 2021, OSHA will issue an Advance Notice of Proposed Rulemaking on heat and injury and illness prevention in outdoor and indoor settings.

### Heat index definitions

The National Weather Service (NWS) uses heat index to classify environmental heat in four categories:

- Caution (80-90° F)
- Extreme Caution (91-103° F)
- Danger (103-124° F), and
- Extreme Danger (125° or higher).

OSHA's advanced inspections could kick in on days when the heat index reaches 80 or above.

### What employers should do

Employers should also familiarize themselves with OSHA's Water, Rest, Shade recommendations to combat heat illnesses.

In 2019, 43 workers died from heat illness and at least 2,400 other suffered serious injuries and illnesses.

The Atlantic Council's Adrienne Arsht-Rockefeller Foundation Resilience Center estimates the economic loss from heat for employers to be at least \$100 billion a year.

For more information on this topic, go to our website and search for "extreme heat."

## 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.

### ■ ANALYSIS ENOUGH TO KEEP WORKERS SAFE ON JOBSITE?

Safety Manager Pete Travers was beyond excited.

It's Halloween night – time for a scary movie marathon with the family, he thought.

Pete's phone rang. It was the company attorney, John Jenkins.

"I guess a call from someone scary is appropriate for tonight," Pete said when he answered.

### 'No one was working there'

John ignored Pete's teasing.

"OSHA is citing us over an issue they found with our cranes. Can you explain?" John asked.

"We did a thorough job safety analysis on that site to find the safest way to set up those cranes," Pete said.

"The inspector was concerned about struck-by hazards from swing points on the counter balances," Pete explained. "One crane was being dismantled, so it's boom was locked in place and couldn't swing.

"The smaller crane was being used to dismantle the other one, and we had it set up so the counter balances were only ever on the side opposite where everyone was working," Pete added. "Our employees weren't in that area – which was protected by an embankment – and had no reason to be there, so we didn't use warning tape or signs in that area."

"If there was no one working there, and the area was shielded by the embankment, then we should be able to 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

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## WHAT'S COMING

### COVID-19 PREVENTION

## 6 feet may not be enough social distancing

- NEW RESEARCH PUTS MORE EMPHASIS ON BUILDING VENTILATION SYSTEMS

New research shows physical distancing alone may not be enough to stop the spread of COVID indoors.

Two meters (about six and a half feet) of distance between unmasked people isn't enough to avoid infectious aerosols, according to researchers at the Penn State Department of Architectural Engineering.

### Displacement vs. mixed-mode

The researchers looked into how building ventilation and physical distancing affect airborne transport of virus particles released in buildings.

- The study looked into three factors:
- the amount and rate of air ventilated through a space
  - the indoor airflow pattern associated with different ventilation types, and
  - the aerosol emission mode of breathing versus talking.

The aerosol sizes studied are in the range that can carry COVID-19.

Results show virus particles from

an infected person speaking without a mask can travel to another person's breathing zone within one minute, even at a distance of two meters and in rooms with sufficient ventilation.

"The results suggest that physical distance alone is not enough to prevent human exposure to exhaled aerosols and should be implemented with other control strategies such as masking and adequate ventilation," said Donghyun Rim, associate professor of architectural engineering.

### Commercial building advantage?

In their tests, aerosols traveled farther and more quickly in rooms with displacement ventilation, where fresh air continuously flows from the floor and pushes old air to exhaust vents near the ceiling. This type of ventilation system is installed in most homes.

Many commercial buildings use mixed-mode systems, which incorporate outside air to dilute the indoor air and result in better air integration and lower aerosol concentrations, according to the researchers.

The study was published in *Sustainable Cities and Society*.

### LEGISLATION

## New law targets warehouse production quotas

In what is believed to be a first, California's governor has signed into law a measure that takes aim at production quotas in warehouses that may lead to worker injuries.

Governor Gavin Newsom's office says AB 701 "establishes new, nation-leading transparency measures for companies to disclose production quota descriptions to their workers and prohibits the use of algorithms that disrupt basic worker rights" such as rest periods, bathroom breaks, or compliance with safety and health laws.

The new law makes it illegal to fire or retaliate against workers who don't meet an unsafe quota.

AB 701 allows the California Labor Commissioner to access workers' comp

data to identify facilities where there are high rates of injury due to use of unsafe quotas. The law also includes potential citations.

It takes effect Jan. 1, 2022.

### Is Amazon the bull's eye?

While not named specifically in the bill, it's believed to target Amazon.

"Amazon's business model relies on enforcing inhumane work speeds that are injuring and churning through workers at a faster rate than we've ever seen," said the bill's sponsor, Assemblywoman Lorena Gonzalez. "We're not going to allow a corporation that puts profits over workers' bodies to set labor standards back decades just for 'same-day delivery.'"

## TRENDS TO WATCH

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

### OWNERS CHARGED WITH WORKERS' COMP FRAUD

The owners of painting and construction companies in California are charged with \$5 million in workers' comp fraud.

Former owners of Signature Painting and Construction Inc., Eric Oller and Brian Mitchell, were each charged with two counts of workers' comp fraud and other crimes. Another owner was charged with one count of comp fraud.

The California Department of insurance says SPC allegedly paid its employees using the bank account of a shell company to reduce workers' comp insurance premiums.

The employer is also accused of misclassifying employees to reduce comp premiums by claiming workers performed less risky tasks.

Employees were also allegedly paid under the table, once again to reduce comp premiums.

### LANDSCAPING, TREE TRIMMING TARGETED

OSHA's New England offices have investigated 31 worker deaths in the tree trimming and landscaping since 2016, leading to the creation of a new Regional Emphasis Program.

This program will combine enforcement and outreach to address common hazards associated with these industries.

The first phase includes outreach before enforcement begins in November 2021.

Inspections have identified the following common hazards:

- falling from trees and aerial lifts
- struck-by injuries from tree limbs
- electrocution from contact with live electrical wires
- cuts caused by equipment, and
- struck-by injuries from vehicle collisions.

# WHO GOT FINED – AND WHY

## 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 \$154K for ammonia leak; prior release fatal**

A plant that had a fatal liquid nitrogen release in January 2021 was cited by OSHA after the plant experienced another chemical release.

Less than two months after the nitrogen leak killed six workers, leading to \$1 million in fines for four companies, the plant experienced an ammonia leak.

**Fine:** \$154,674

**Company:** Foundation Food Group, Gainesville, GA

**Business:** Poultry processing

**Reason for fine:**

23 violations, including failure to:

- protect workers from exposure to dermal and respiratory hazards from anhydrous ammonia
- install systems to protect employees from unexpected anhydrous ammonia releases
- guard horizontal conveyor shafts
- provide adequate lockout/tagout training
- ensure workers used locks to isolate hazardous energy during equipment maintenance

### **Repeat fall hazard citations add up for company**

A masonry company exposed its workers to unsecured scaffolding repeatedly, according to OSHA.

A March 2021 inspection under a Regional Emphasis Program for falls in construction found similar violations to ones OSHA cited the company for in 2018 and 2019.

**Fine:** \$216,265

**Company:** RM Masonry and Stucco Inc., Fort Worth, TX

**Business:** Masonry

**Reasons for fine:**

9 repeat violations, including failure to:

- fully plank or deck each platform on all working levels of scaffolds between front uprights and guardrail supports
- ensure employees working on 5 tier

scaffold systems had a safe means of access/egress

- require a competent person inspect scaffolds for visible defects before each work shift and after any occurrence which could affect a scaffold's structural integrity
  - require scaffolds are erected, moved, dismantled or altered only by experienced and trained employees selected by a competent person
  - protect employees from scaffolds more than 10 feet above a lower level from falling
- 6 serious violations, including failure to:
- keep debris clear from work areas, scaffold egress and passageways
  - provide each employee on a scaffold with additional protection from falling tools, debris through the installation of toe-boards, screens, guardrails or nets
  - lock end frames of tubular welded frame scaffolding by the use of pins in areas where uplift could occur

### **Contractor cited 6th time in 5 years for fall hazards**

OSHA says a roofing contractor has defied federal requirements to use fall protection six times in five years.

During the latest inspection in April, inspectors observed owner Neal Weaver and an employee working without fall protection on a roof nearly 20 feet off the ground.

Weaver hasn't cooperated with federal safety inspectors under a previous company name, Dutch Heritage LLC.

**Fine:** \$253,556

**Company:** Grand Valley Carpentry LLC, Streetsboro, OH

**Business:** Roofing contractor

**Reasons for fine:**

2 willful violations:

- employees engaged in residential construction 6 feet or more above lower levels weren't protected by guardrail systems, a safety net system or a personal fall arrest system
- employees weren't provided with eye and face protection when machines or operations presented potential eye or face injury

## WORKERS' COMP DECISIONS

### **Worked while collecting: Can benefits continue?**

Can an injured worker continue to collect benefits after failing to disclose his snow plowing job?

**What happened:** A worker injured his shoulders on the job and received workers' compensation benefits. However, he continued to operate a snow plow for a company he had worked for in the past.

**Company's reaction:** You forfeited your benefits by working for another company.

**Decision:** He could collect. The court found the worker wasn't being paid to run the snow plow, and was instead doing it as a favor to a friend, so it didn't count as employment.

**Cite:** *Matter of Ranieri*, NY Court of Appeals, No. 530208, 3/11/21.

### **Injured worker can't do his old job: Can he collect?**

An injured ironworker wanted permanent disability benefits, but light duty wasn't out of the question. Can he collect?

**What happened:** An ironworker injured his back and shoulders at work. He could no longer do the job he performed for decades, so applied for permanent total disability benefits.

**Company's reaction:** You may not be able to work as an ironworker, but you could get light duty in retail.

**Decision:** He couldn't collect. The appeals court upheld a previous decision finding that just because the worker could no longer be employed in the iron industry didn't mean he was incapable of working light duty in a retail job.

**Cite:** *Catalano's Case*, MA Court of Appeals, No. 20-P-957, 4/12/21.

## REAL PROBLEMS, REAL SOLUTIONS

## Selling Safety to different personalities

Are you in Sales? You probably thought, *no, I'm in Safety.*

However, 90% of all communication in long-term partnerships, including business, is sales.

Example: You need more budget for Safety. You have to convince someone of that, so you're in Sales.

And to know the best way to sell someone on something, you have to know something about their personality type.

## 4 types

Personalities can be divided into four groups represented by geometric shapes: squares, triangles, circles and squiggly lines.

**Squares** are structured, left-brained and detailed. They like things to be in order. They hate clutter. They are dedicated people and are pretty honest. They are some of the hardest working people ... according to themselves. They work hard, but they don't like to work with other people. "If you give it to me, I'll get it done right, but leave me alone."

**Triangles** can have a bit of a temper that comes out of nowhere. They are the perfectionists. They want things to be done right. Whose way is right? Their way. In school, you argued that your grade on your test wasn't high enough. You're a little OCD. You'll do things over and over just to make sure it's right. You're great at multitasking.

**Circles** tell long stories that go on and on and on. You're the party people, the most social. COVID-19 lockdown was the hardest for you. You're the motivators of the world, and also the one who says, "It's going to be OK, we'll get through this." You want everyone to get along. The problem with Circles is that you get dumped on. The word you don't know is "no." "I'll do it" is your motto.

**Squiggly lines** think outside of the box. They like to do things differently, have fun and get along. It's been a tough year for Squiggles. They like to make people laugh. They're dedicated, but people don't take them seriously

because they're funny or because they take a squiggle's humor personally.

## Closing the deal

Why do we need to know about personalities? Because knowing someone else's personality type will help you close a deal with them.

You have a great idea but can't sell it to the person who needs to buy in.

The problem: Squares and Triangles don't know how to sell to Circles and Squiggles (and vice versa).

**Squares:** Circles and Squiggles don't get you and you don't get them. Most Squares would like to meet in their office. Go to a Square's office to close a deal. Squares aren't interested in small talk. Be early. Give them their personal space.

**Triangles** also want to meet in their own offices. It's about control. Similar to squares they don't want small talk, are early and like social distancing.

**Circles** like to be close to other people. They hug (when there isn't a pandemic). Don't meet with them in anyone's office. Meet someplace where they can eat and drink. Act like you have a little extra time to deal with a Circle. If someone is late, a Circle is OK with that. They are willing to pay more for something from a person they like. They need to like you to buy from you. Circles like small talk because they're interviewing you to see if you're the type of person they want to do business with.

**Squiggles** are the hardest people to close a deal with. They prefer to be with people who are funny. To close a deal with a Squiggle, you better be funny. Generally, Squares aren't funny. Triangles think they're funny, but their "funny" is mostly sarcasm. Circles are funny at the end of their long stories.

Usually, when we sell to people, we sell *how we want* to be sold to. No one wants that. People want to be sold *the way they want*.

(From a session by Connie Podesta, Psychologist, Comedian and Squiggle, at ASSP's Safety21 Conference)

## TRAINING TIPS

## Cold weather: Keeping workers safe in winter

OSHA has placed a new emphasis on the hazards of heat stress (see page 1).

Here are some tips on how workers can protect themselves from cold temperature hazards:

- **Wear the right clothes.** Many layers of loose-fitting clothing will help insulate your body, but tight layers can restrict circulation, which is bad for your extremities
- **Protect your extremities,** especially your ears, face, hands and feet. Wear insulated, waterproof boots and a hat to protect your feet and head
- **Limit time outside.** Also take breaks often in a warm area. Don't forget to drink warm beverages
- **Keep extra gear for cold weather with you** like socks, gloves, hats, a jacket, blankets and a thermos full of a hot beverage
- **Add a thermometer** and chemical hot packs to your first-aid kit
- **Don't touch cold metal surfaces** with your bare skin
- **Keep a close eye on your condition,** as well as your co-workers. Speak up right away if you notice a problem, and
- **Practice careful lifting techniques** when shoveling snow to prevent back injuries.

## Ergonomic redesign that automatically gets buy-in

Focusing on making your facility more ergonomic?

Challenge employees to suggest workstation redesigns that:

- limit reaching or straining, and
- allow work to be comfortable.

The goal: Employees should feel decreased pain and discomfort.

## PANDEMIC

## Federal contractor COVID-19 vaccination deadline: Dec. 8, 2021

The Biden administration has released details on its requirement for federal contractors to have their employees vaccinated for COVID-19, including a compliance date.

The Biden administration has released details on its requirement for federal contractors to have their employees vaccinated for COVID-19, including a compliance date.

Contractors must ensure all covered employees are fully vaccinated for COVID-19 no later than Dec. 8, 2021, unless the employee is legally entitled to an accommodation.

After that, all covered contractor employees must be fully vaccinated by the first day of the period of performance on a newly awarded covered contract.

## Limits on exemptions

If a federal agency has an urgent need for a covered contractor to have its employees begin work before becoming fully vaccinated, the agency head may approve an exemption. If an exemption is granted, employees must be fully vaccinated within 60 days of beginning of work on a contract.

Guidance for federal contractors released on Sept. 24, 2021, by the Safer Federal Workforce Task Force

includes requirements for masking and physical distancing, and designating a person to coordinate COVID-19 workplace safety efforts.

The guidance contains answers to frequently asked questions about the contractor requirements.

Part of President Biden's COVID vaccination still to come from: OSHA regulations for employers with 100 or more employees to have their workers vaccinated against COVID-19.

Info: [saferfederalworkforce.gov](https://saferfederalworkforce.gov)

## Unsecured loads: Deadly, covered by federal regs

Unsecured or inadequately secured loads in the transportation industry are more than just a nuisance that cause damaged freight – unsecured loads can kill. That's why there are state and federal regulations on securing freight.

An incident in Washington State perfectly illustrates this point.

A truck driver was struck by a 1,500-pound bale of recycled cardboard when it fell on him after he opened the doors to his loaded trailer.

When the driver arrived near the

loading dock at the delivery location, he opened the doors and a stack of bales became unstable, falling out and killing him from blunt force trauma.

Straps to secure the load were provided but weren't used.

Washington State requires loads be properly secured (WAC 296-865-30020-1) and federal regs 49 CFR 392.9 (Subpart A) and 49 CFR 393 Subpart I also requires loads to be both secure and properly distributed.

## Ignoring regs leads to double fatality

Washington State's Department of Labor & Industries released a report on a painting and carpentry contractor and his son who were both electrocuted when their aluminum extension ladder contacted an overhead power line as they were moving it on a windy day.

The state has two regulations on ladders used near power lines: WAC 296-155-428(17), which discusses deenergizing lines or using other protective measures, and WAC 296-876-40035, which covers ladders with nonconductive side rails.

## SHARPEN YOUR JUDGMENT – THE DECISION

(see case on Page 2)

Yes, the company won when an administrative law judge vacated the citation finding OSHA failed to prove employees had access to the zone of danger.

The company claimed its job safety analysis (JSA) showed the active crane could be set up in a way that its counter balance swing points were kept well away from workers.

OSHA argued both cranes – even the partially dismantled one with its boom locked in place – posed swing point hazards, so a citation for failing to post signs and barriers was appropriate.

The judge found OSHA didn't provide sufficient evidence that any workers were in danger of either crane at any time since one was inactive with its boom locked

down and OSHA's photos from the jobsite showed both the embankment and the fact there were no employees in the hazard area at the time of the inspection.

## ANALYSIS: REASONS FOR HAVING A GOOD JSA

Safety pros serve two masters: the workers they aim to protect and the employer who hired them.

Ideally, a safety pro protects their workers while still allowing a job to proceed as efficiently as possible for the employer.

A high-quality JSA will help with this, and if there is a hazard, it can be used to demonstrate to the employer that alternative methods are justified.

Cite: *Secretary of Labor v. North American Crane & Rigging LLC*, Occupational Safety and Health Review Commission, No. 20-1089, 8/9/21. Dramatized for effect.

## FEDERAL ACTIVITIES

### 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](https://www.safetycompliancealert.com/category/federal-activities).

#### PANDEMIC

Booster shots for the Pfizer-BioNTech COVID-19 vaccine are now available, but who is eligible for them?

People ages 18 to 64 years old who are at increased risk of COVID-19 exposure and transmission due to working or residing in certain settings can get the booster shots.

Although the vaccination for older adults remains effective in preventing severe disease, new studies point to the vaccination being less effective at preventing infection with milder illness symptoms, according to the U.S. Centers for Disease Control and Prevention (CDC).

The new evidence shows that among healthcare and other frontline workers, the vaccine's effectiveness is beginning to decrease with time, likely due to waning immunity and the greater infectiousness of the Delta variant.

A recent clinical trial shows the Pfizer-BioNTech booster shot increases the immune response in participants who finished the first set of vaccinations six months earlier.

That increased immune response should provide improved protection against COVID-19, including the Delta variant of the virus.

The CDC recommends the following people should get booster shots of the Pfizer-BioNTech COVID vaccine at least six months after completion of their two-dose series:

- People 65 years old and older
- Adults 18 and older who live in long-term care settings
- People 50 to 64 years old with underlying medical conditions
- Those 18 to 49 years old with an underlying medical condition, and
- People 18 to 64 at increased risk for exposure and transmission due

to working or residing in certain settings.

#### POST-INJURY TESTING

A federal judge has ruled that a trucking company illegally used a strength test for women returning to work from an injury or applying to be a truck driver.

The judge ruled the test issued by Stan Koch & Sons Trucking of Minneapolis and developed by Cost Reduction Technologies (CRT) discriminated against women drivers.

The U.S. Equal Employment Opportunity Commission alleged the CRT test disproportionately screened out women who are qualified for truck driver positions at Koch.

The test was given to people who were received conditional offers of hire by Koch to work as truck drivers or who were already employed by Koch and required to take the test to return to work after an injury.

"Employers are allowed to use hiring screens and they are allowed to use physical abilities testing, when appropriate," said Julianne Bowman, the EEOC's district director in Chicago. "However, when a hiring screen has disparate impact on female applicants and employees, like the CRT test did at Koch, employers need to take a hard look at whether they can prove those tests are job-related."

#### TRACTOR TRAILER RECALL

Daimler Trucks North America (DNTA) is recalling certain 2019 Freightliner Classic Cascadia and 2019-2021 Freightliner Cascadia Trucks.

The drag link taper joint may not have been tightened sufficiently, and could separate from the steering arm.

DNTA will inspect the drag link taper joint and repair it for free, if necessary.

Notification letters are being sent to owners on Oct. 31, 2021.

There are 105,183 potential trucks that are affected.

**Info:** [nhtsa.gov/recalls?nhtsaId=21V689](https://www.nhtsa.gov/recalls?nhtsaId=21V689)

#### WHERE TO GET HELP

##### ■ HELP EMPLOYEES FIND COVID-19 VACCINATIONS

President Biden's call for OSHA to develop an emergency temporary standard that mandates COVID-19 vaccination (or regular testing) for workers at companies with more than 100 employees creates a new reason why people will be looking up where to get vaccinated.

At [vaccines.gov](https://www.vaccines.gov), employees can click on "find COVID-19 vaccines" for locations close to them.

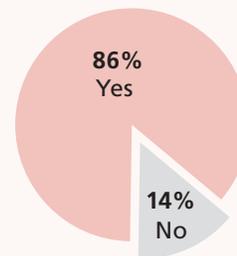
Powered by VaccineFinder, employees fill in their five-digit zip code, a search radius in miles, the type (Moderna, Pfizer, Johnson & Johnson) they want to get, and whether results should be limited to locations that have appointments available.

They can also call for assistance.

**Info:** [vaccines.gov/search](https://www.vaccines.gov/search) or 800-232-0233

#### What safety officers told us

Are you bringing a face mask to wear at work?



Source: Bradley Corp. Healthy Handwashing Survey

As fall starts and many places in the U.S. still have high or substantial transmission rates of COVID-19, most employees are opting to bring masks to work.

*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

## Dotting the i's and crossing the t's of mandatory vaccination programs

**Q:** What should employers thinking about starting a mandatory COVID-19 vaccination requirement consider?

**A:** There are several things an employer should consider before requiring employee vaccination, according to Christine Gantt-Sorenson with Haynsworth Sinkler Boyd:

- exceptions under the ADA and Title VII for medical and religious accommodations
- ADA confidentiality requirements
- if the employer will have a third-party administer vaccinations or if they will be offered in-house
- implicating HIPAA and other privacy protections, and
- wage and hour issues associated with the time it takes an employee to get vaccinated.

### COVID-19 vaccinations: Carrot or stick approach?

**Q:** Should we offer cheaper health plan coverage for vaccinated employees?

**A:** Many companies are considering this option, according to Beth Alcalde of Akerman LLP.

If your company is looking into this as open enrollment season comes around, here is one thing to think about according to Alcalde:

Would this be positioned as a penalty for the unvaccinated or a benefit for the vaccinated? There's an argument to be made that positioning this as a

benefit to vaccinated employees is the better approach.

Regulators might look more kindly on this method also.

### Reg seems for outdoors only: Does it apply indoors, too?

**Q:** Do Cal/OSHA's wildfire safety requirements apply to more than outdoor worksites?

**A:** Yes, the standard also applies to indoor locations in certain circumstances, according to Sierra Vierra, an attorney with Jackson Lewis.

If the air isn't filtered or if doors and windows are kept open, in places like warehousing, manufacturing and distribution facilities, the standard applies.

With some exception, the standard applies to workplaces where the air quality is 151 (unhealthy) or higher and where it's reasonably anticipated employees may be exposed to wildfire smoke.

To protect employees from wildfire smoke in California, employers must:

- monitor local air quality index
- communicate about air quality with employees
- train employees on Cal/OSHA's requirements
- modify the workplace, if possible, to reduce exposure to wildfire smoke, and
- provide proper respiratory protection, like N95 respirators.

If you have a safety-related question, email it to Merriell Moyer at: [mmoyer@pbp.com](mailto:mmoyer@pbp.com)

### OUTSIDE THE LINES

#### ■ WHY IT'S GOOD TO BE THE SAFETY MANAGER

Now here's a headline that'll catch any worker's interest: "Say Goodbye to Your Manager: The pandemic has exposed a fundamental weakness in the system."

The article in *The Atlantic* by Ed Zitron, CEO of EZPR, says since the pandemic, "managers will be assessed not on their ability to intimidate other people into doing things, but on their ability to provide their workers with the tools they need to measurably succeed at their job."

Isn't that a job description tailor-made for a Safety Manager?

You can't be everywhere at once. Therefore, it's always been up to you to make sure employees follow good safety practices, even when you're not around.

Sounds like a manager dealing with remote workers. Your skills are ready-made for the post-pandemic world.

### Did you know ...

#### Use self-inspections to identify hazards



An effective way to **identify workplace hazards** is for experienced workers to **conduct routine safety self-inspections**.

Source: OSHA

After employees identify hazards, employers should decide how to control them, and then monitor and evaluate to verify that the controls are effective.

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