

NECA

Oregon Pacific-Cascade



IBEW

Local Union #659

Joint Safety Committee
Oregon Pacific-Cascade Chapter, NECA
IBEW Local 659
Tuesday July 13, 2021
Meeting MINUTES

Rollcall: meeting called to order-In Person

Approval of Previous Meeting Minutes

1.0 Communications

- 1.1 Safety Break Oregon-2021- Site visits 6/8- Ashland, K-Falls
- 1.2 OR-OSHA- High and extreme heat protections-

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

- 2.1 Safety Packet Review
- 2.2 EC Magazine
 - 2.2.1 Infrastructure plan- boom to industry (Local 659)
 - 2.2.2 Smart Grid- station expansion
- 2.3 Safety & Health Magazine
 - 2.3.1 NYC- “Zero tolerance” safety sweeps (fall fatalities 2 workers in 2 weeks)
 - 2.3.2 Humor in safety- opens the door- (careful, blurred lines, know audience)
- 2.4 EHS Today
 - 2.4.1 Webinar- OSHA Workplace Safety Inspections 8/11/21 Link available
- 2.5 Safety App- Heat Related Illness
 - 2.5.1 NIOSH app
 - 2.5.1.1 All supervisors load on devices
 - 2.5.1.2 Supervisors trained on symptoms/FA response
- 2.6 Safety App- Air Quality Index-
 - 2.6.1.1 All supervisors load on devices and familiar
- 2.7 PPE Review
 - 2.7.1 Bump caps application- Hospitals, Service Vans, etc.
 - 2.7.2 Kevlar sleeves- application in dropped ceilings
- 2.8 Fire Extinguishers
 - 2.8.1 Reviewed inspection, use and review of FPP and EAP

3.0 OSHA Injury/Incidents

Next Meeting – August 10, 2021

Adjournment

August 10, 2021

Elias Campbell- GEW
Senior Safety Consultant

NECA



IBEW

Oregon Pacific-Cascade

Local Union #659

Joint Safety Committee
Oregon Pacific-Cascade Chapter, NECA
IBEW Local 659
Tuesday August 10, 2021
Meeting AGENDA

Rollcall: meeting called to order (VIA ZOOM) Approval of Previous Meeting Minutes

1.0 Communications

- 1.1 ACM 1%<, handling, housekeeping (OR-OSHA Factsheet)

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

- 2.1 Safety Packet Review
- 2.2 EC Magazine
 - 2.2.1 EEOC/ADA guidance- evolving as COVID-19 progresses
 - 2.2.2 NSC response to CDC guidance-3 steps (risk-based, verify, inclusion)
- 2.3 Safety & Health Magazine
 - 2.3.1 Safety incentive programs- good, bad, ugly
 - 2.3.2 See the best in others- and yourself- *It never hurts to see the good in someone, they often act the better because of it.* – Nelson Mandela
- 2.4 EHS Today
 - 2.4.1 No employee left behind- psychological harm is, Great Resignation??
 - 2.4.2 AIHA- “Back to Work Safely” clearinghouse of data, reports

3.0 OSHA Injury/Incidents

- 3.1 None reported

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: September 14, 2021



Safety Meeting Packet

August 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	615,476	6	102,579	82,595	93,391	100,648	113,117	116,512	109,213					
280	Inside Appr.	200,183	6	33,364	27,402	29,644	32,778	36,549	37,192	36,618					
280	MAI	0	6	0	0	0	0	0	0						
280	Material	59,877	6	9,980	10,283	9,566	9,875	9,398	10,971	9,784					
280	Residential	36,906	6	6,151	4,681	5,546	6,563	7,284	6,259	6,573					
280	Resi. Appr.	25,408	6	4,235	2,774	3,627	4,182	4,892	4,735	5,198					
280	S & C	100,209	6	16,702	14,409	16,486	17,317	18,920	16,101	16,976					
280	S & C Appr.	45,379	6	7,563	5,989	6,463	7,770	8,991	7,882	8,284					
280	Support Tech/MOU	57,432	3	19,144	7,374	9,693	9,520	11,167	9,824	9,854					
TOTAL 280		1,140,870		199,717	155,507	174,416	188,653	210,318	209,476	202,500	0	0	0	0	0
Total NECA					129,255	148,536	156,181	178,222	170,755	164,485	0	0	0	0	0
% NECA					83.12%	85.16%	82.79%	84.74%	81.52%	81.23%	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
Local#	Contract Type	Annual Total	Average Hrs/Mo	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
659	Inside	124,535	6	20,756	14,402	17,416	19,899	25,953	24,333	22,532					
659	Inside Appr.	54,197	6	9,033	6,631	7,413	8,788	10,921	10,322	10,122					
659	Material	2,174	6	362	326	315	506	286	339	402					
659	Residential	3,380	6	563	529	604	571	662	480	534					
659	Resi. Appr.	1,836	6	306	192	292	388	404	255	305					
659	S & C	2,888	6	481	377	388	574	547	548	454					
659	S & C Appr.	185	6	31	31	141	4	6	3	0					
Total 659		189,195		31,533	22,488	26,569	30,730	38,779	36,280	34,349	0	0	0	0	0
Total NECA					16,260	18,904	21,099	29,410	26,543	23,292	0	0	0	0	0
% NECA					72%	71%	69%	76%	73%	68%	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
Local#	Contract Type	Annual Total	Average Hrs/Mo	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
932	Inside	55,605	6	9,268	7,377	8,779	10,566	10,940	8,774	9,169					
932	Inside Appr.	25,112	6	4,185	3,196	4,050	4,393	4,592	4,322	4,559					
932	Residential	2,309	6	385	204	321	457	595	467	265					
932	Resi. Appr.	411	6	69	123	145	0	0	0	143					
932	S & C	2,506	6	418	248	276	556	406	433	587					
932	S & C Appr.	155	6	26	49	37	50	19	0	0					
Total 932		86,098		14,350	11,197	13,608	16,022	16,552	13,996	14,723	0	0	0	0	0
Total NECA					10,106	12,371	14,448	14,911	12,511	13,148	0	0	0	0	0
% NECA					90%	91%	90%	90%	89%	89%	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
Grand Total		1,416,163		245,599	189,192	214,593	235,405	265,649	259,752	251,572	0	0	0	0	0

7/27/2021

2021 LABOR HOURS RECAP ALL SIGNATORY CONTRACTORS

Total NECA	1,160,437	6	193,406	155,621	179,811	191,728	222,543	209,809	200,925	0	0	0	0	0	0
% NECA	82%		79%	82%	84%	81%	84%	81%	80%	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!

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	508,502	6	84,750	68,719	79,269	83,261	95,582	94,542	87,129						
280	Inside Appr.	148,642	6	24,774	19,971	22,732	24,344	28,177	26,492	26,926						
280	MAI	0	6	0	0	0	0	0	0	0						
280	Material	52,488	6	8,748	9,029	8,340	8,326	8,475	9,736	8,582						
280	Residential	22,583	6	3,764	2,769	3,611	3,792	4,443	3,811	4,157						
280	Resi. Appr.	19,641	6	3,274	2,079	2,906	3,110	3,854	3,678	4,014						
280	S & C	93,823	6	15,637	13,492	15,682	16,253	17,730	14,956	15,710						
280	S & C Appr.	44,323	6	7,387	5,822	6,303	7,575	8,794	7,716	8,113						
280	Support Tech/MOU	57,432	3	19,144	7,374	9,693	9,520	11,167	9,824	9,854						
Total 280		947,434	51	167,478	129,255	148,536	156,181	178,222	170,755	164,485	0	0	0	0	0	0

Local#	Contract Type	Annual Total		Average Hrs/Mo	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
659	Inside	92,356	6	15,393	10,690	12,739	14,033	20,482	18,441	15,971						
659	Inside Appr.	38,241	6	6,374	4,847	5,320	6,095	8,181	7,293	6,505						
659	Material	543	6	91	75	10	122	0	117	219						
659	Residential	1,159	6	193	284	226	191	174	141	143						
659	Resi. Appr.	180	6	30	0	80	80	20	0	0						
659	S & C	2,844	6	474	333	388	574	547	548	454						
659	S & C Appr.	185	6	31	31	141	4	6	3	0						
Total 659		135,508		22,585	16,260	18,904	21,099	29,410	26,543	23,292	0	0	0	0	0	0

Local#	Contract Type	Annual Total		Average Hrs/Mo	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
932	Inside	51,608	6	8,601	6,812	8,226	9,873	10,116	8,086	8,495						
932	Inside Appr.	23,414	6	3,902	2,997	3,832	4,134	4,373	3,992	4,086						
932	MAI	0	6	0	0	0	0	0	0	0						
932	Residential	0	6	0	0	0	0	0	0	0						
932	Resi. Appr.	0	6	0	0	0	0	0	0	0						
932	S & C	2,318	6	386	248	276	391	403	433	567						
932	S & C Appr.	155	6	26	49	37	50	19	0	0						
Total 932		77,495		12,916	10,106	12,371	14,448	14,911	12,511	13,148	0	0	0	0	0	0

Grand Total		1,160,437		202,978	155,621	179,811	191,728	222,543	209,809	200,925	0	0	0	0	0	0
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**IBEW LABOR HOUR RECAP, LAST 5 YEARS
ALL SIGNATORIES**

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
2017	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
2018	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
2019	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
2020	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
2021	189,192	214,593	235,405	265,649	259,752	251,572	0	0	0	0	0	0	1,416,163
Grand Total	947,640	1,091,096	1,201,120	1,062,292	1,115,282	1,107,981	818,775	996,049	897,476	989,312	986,274	980,085	12,193,381

**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
2017	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
2018	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
2019	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
2020	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
2021	22,488	26,569	30,730	38,779	36,280	34,349	0	0	0	0	0	0	189,195
Grand Total	122,957	152,792	165,532	139,348	149,859	146,452	100,150	125,781	127,333	147,151	168,757	150,068	1,557,279

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

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
2017	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
2018	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
2019	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
2020	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
2021	155,621	179,811	191,728	222,543	209,809	200,925	0	0	0	0	0	0	1,160,437
Grand Total	780,885	913,614	989,836	882,828	910,797	900,361	668,300	819,205	722,360	808,968	769,117	801,504	9,345,467

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

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
2017	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
2018	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
2019	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
2020	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
2021	16,260	18,904	21,099	29,410	26,543	23,292	0	0	0	0	0	0	135,508
Grand Total	89,387	109,071	114,482	100,663	109,853	102,796	70,806	88,278	79,896	88,179	93,025	95,911	1,072,173



Safety Training Topics

September 2021

Tools – Hand Tool Safety

Tools – Hydraulic and Pneumatic Tools

Tools – Powder-Actuated Tools

Tools – Power Tool Safety

The Safety Attitude

SAFETY TRAINING TOPIC

Tools – Hand Tool Safety

WHY THIS IS IMPORTANT

A misapplied hand tool can easily result in injury.

A worn or damaged tool can easily result in injury. Tool-related injuries are 100% preventable. Check tools before you use them.

Poor tool use and maintenance habits are common.

If the tool slips off the part you're doing electrical work on, it may result in more than skinned knuckles-you could come in contact with energized parts.

PICK THE RIGHT TOOL FOR THE JOB

Do not use a screwdriver, wrench, or other tool as a hammer. Use a hammer, instead. If you use a ratchet as a hammer, you'll damage the mechanism and it will slip later.

Use insulated tools around energized equipment. Electrical tape wrapped on the shank of a screwdriver is not suitable insulation.

Avoid using adjustable wrenches. Use the correct size box end or open end wrench.

Do not use pliers to turn nuts or bolts.

When using a slotted screwdriver, use the correct size blade for a given slot. Use Phillips head tools for Phillips head fasteners, Torx™ head tools for Torx™ head fasteners, and so on.

Do not use a screwdriver as a pry bar.

A screwdriver with a fatter handle reduces wrist strain. Use hardened, industrial-quality tools.

REPLACE WORN TOOLS

Replace any tool if the plating is chipped or peeling.

Replace a screwdriver if the tip is chipped, bent, or rounded off.

Replace a box end wrench if the box edges aren't sharp or true.

Replace an open end wrench if the jaws are no longer square.

Replace an adjustable wrench if the jaws have noticeable play, the mechanism slips or binds, or the jaws are rounded.

Replace a socket wrench if the wrench binds, if the locking mechanism no longer holds, or the wrench won't easily switch from forward to reverse.

Replace individual sockets if they are cracked, they don't stay on the wrench or extension, or if the faces or corners are no longer true.

Replace adjustable pliers if the jaws slip or bind. Replace them if the jaw grooves are worn too much for an effective grip.

Replace or sharpen any cutting tool that has lost its edge. Replace wire strippers and cutters that are dull.

MAINTAIN TOOLS

Keep tools clean so they don't slip when you use them. Keep tools dry so they work properly. Keep them on a pad if storing them in a metal container.

Keep tools organized so you're not tempted to use the wrong one.

Keep tools with moving parts, like adjustable pliers, lubricated.

WEAR PPE

Wear safety glasses to protect your eyes.

Wear work gloves as needed to protect your hands.

MISCELLANEOUS

When using a knife, push away from your body.

When using wire strippers, take care not to "aim" them at another person or at your own face.

REVIEW AND DISCUSSION

- Why should you use the right tool for the job?
- What's the problem with using a worn or damaged tool?
- What should you use, if you need to hammer something? Why not a ratchet?
- How does the type of screw or other threaded fastener you're using help determine what type of screwdriver to use?
- When should you replace screwdrivers?
- When should you replace wrenches and pliers?
- When should you replace sockets and ratchets?
- When should you replace cutting tools?
- What are some rules about tool maintenance? Why is tool maintenance important?
- What are some PPE issues?

SAFETY TRAINING TOPIC

Tools – Hydraulic and Pneumatic Tools

PRESSURE

Pneumatic tools operate with sufficient pressure to cause bodily harm or death. At the point of use for a distributed air system, the operating pressure is typically 30 PSI, but it can be much higher at the main air header. Portable pneumatic tools typically operate at the pressure of the air tank-usually 80 PSI or higher.

Hydraulic tools operate by forcing the volume of one chamber into the much smaller volume of another chamber, thereby multiplying the pressure. The explanation for the physics of this is called Bernoulli's Law. Pressure created by hydraulic tools can be several thousand PSI, which is enough to penetrate metals. Even manually-powered pump action punch sets generate significant pressure.

Check hoses and fittings before and during use. If a hose looks cracked or chipped, replace it.

Fix any leak immediately. A hose leak can mean a hose is about ready to pop off a fitting, or it can mean it is about to burst. A pinhole leak in a hydraulic line can slice off your leg.

Never aim a powered tool at another person.

Hold pieces down with clamps, rather than with your fingers or those of a coworker. If the work surface isn't amenable to clamping, use vise grip pliers or some other tool instead of your bare hands.

Safety glasses are the bare minimum PPE when using pneumatic or hydraulic tools. Depending on the situation, you may need to wear goggles or a face shield. Wear work gloves if exposure to metal shards is a possibility.

NOISE

The high-pitched whine of the spinning parts of the tool attacks your hearing at its boundaries. In fact, you may not even be able to hear noise that is destroying the cilia - those little hairs deep inside your ear. Wear hearing protection when using air-powered tools.

The noise of the compressor is usually loud enough to require hearing protection.

OIL

If a tool drips or leaks oil, wipe up the oil immediately. In addition to creating a slipping hazard, the oil may attack skin tissue or have vapors that are irritating or even harmful.

Wash your hands after using pneumatic or hydraulic tools, so you don't ingest the oil that these tools use.

Pneumatic tools usually have mineral oil or some other light oil in their working parts. The air around you will have some oil in it as you use the tool. Provide some ventilation to reduce toxicity.

Hydraulic tools use hydraulic fluid. This fluid does not have the same properties as the motor oil in your car. It is usually more toxic.

Depending on the fluid, you may need to wear rubber gloves to service the tool. If you are unsure, read the manufacturer's manual. Servicing the tool can be any- thing from adding hydraulic fluid to replacing a leaky seal.

REVIEW AND DISCUSSION

- Do air-powered tools pose much of a hazard?
- Do hydraulic tools produce enough pressure to penetrate metal?
- When should you check hoses and fittings?
- When should you fix a leak?
- Is a pinhole leak dangerous?
- Where should you never aim a powered tool?
- What are safe ways to hold work pieces in place?
- What PPE is appropriate for use with these tools?
- What are some noise issues to be aware of?
- What are some safety rules regarding the oil or other fluids used in hydraulic and pneumatic tools?

SAFETY TRAINING TOPIC

Tools – Powder-Actuated Tools

GENERAL REQUIREMENTS

Only qualified operators should operate these tools. Powder-actuated tools are, in essence, firearms-and deserve the same level of respect and care.

As with firearms, anyone near the area of operation must wear hearing protection. Unlike firearms, operators and anyone nearby must wear face protection-not just safety glasses-because of the proximity of the point of impact.

Always inspect the tool before use. A misfire can be lethal, so en on the side of caution.

Never load a tool until yon are ready to use it. Unload the tool before breaks. Never leave a loaded tool unattended-unload it.

Do not leave loads unattended. If you do not have a way to lock np unused loads, leave them with your foreman or another person designated for that purpose.

Never point the tool at any person, whether it is loaded or not. Point it toward the ground, any time it is out of its case and not being used.

Rope off the work area and post the appropriate warning signs.

Use the correct tool for the application. For example, don't use a low velocity tool in a high velocity application or use a high velocity tool in a medium velocity application.

Use the appropriate powder charge for the application. You can determine the powder load by observing the color of the load (gray, brown, green, yellow, red, or purple) and the case color (brass or nickel). Nickel cases always have a higher energy level than brass ones. Caseless loads are in the six lowest energy levels.

Determine base material suitability prior to using the tool.

DETERMINING BASE MATERIAL SUITABILITY

- Using a fastener as a center punch on the base material you intend to use, strike the fastener with one sharp blow.
- If the tip left a clear impression in the material and the point of the fastener is not blunted, proceed with the first test fastening.
- If the tip didn't leave a clear impression in the material or if the tip of the fastener is now blunted, the material is too hard.
- If the material cracks or shatters, the material is too brittle.
- If the fastener sinks into the material, the material is too hard.

LIMITATIONS

Do not use these tools in the presence of flammable gases, vapors, or dust. Do not use in the presence of other explosive materials.

Do not drive the fastener into an existing hole, unless you use a manufacturer-supplied guide for that purpose.

Do not drive fasteners into very hard or brittle materials unless you have fasteners and charges designed for that purpose. Such materials include cast iron, glazed tile, glass block, face brick, and hollow tile.

If driving into thin material that the fastener might completely penetrate, place a suitable backstop behind the material.

Don't drive a fastener into a spot less than 1/2 inch from the edge of steel or 3 inches from the edge of masonry.

Don't drive fasteners into concrete unless the material is at least three times as thick as the depth of the fastener penetration.

OPERATING THE TOOL

Use the shield, fixture, adapter, and/or accessory as specified by the manufacturer. If in doubt, consult the manual or contact the manufacturer for assistance.

Align the tool so it is perpendicular to the work surface. Otherwise, you may get a collateral discharge. The manufacturer may allow you to make exceptions to this rule by providing a different procedure for special applications- this will typically include additional precautions.

Make a test fire, before making all the fastenings required for the job. Start with the lowest energy level recommended for the job. If the fastener doesn't penetrate deeply enough, try the next most powerful charge.

Should a misfire occur, hold the tool against the work surface for a full 30 seconds. Then, follow the manufacturer's instructions exactly. If you get more than one misfire in a given shift, ask your foreman to help you determine the cause.

REVIEW AND DISCUSSION

- Who can administer powder-actuated tool training?
- What protection must everyone use when near a powder-actuated tool operation?
- Who can use these tools?
- When should a tool be loaded? Unloaded? Why?
- What should you do with unused loads if you must leave the area?
- What are the rules for pointing the tool?
- How do you know you have the right charge for the application?
- How do you test the material to see if it is too hard?
- What if you need to drive the fastener into an existing hole?
- What should you do if a misfire occurs?

SAFETY TRAINING TOPIC

Tools – Power Tool Safety

GENERAL RULES FOR USE

The minimum PPE is a pair of safety glasses. Hearing protection is usually warranted.

Do not wear loose clothing around rotating equipment, including power tools. This includes work gloves - use the proper type. Ask your foreman if you are unsure.

If you have long hair, wear it put up in a hairnet, ponytail, or other restraint to keep it from getting caught in the rotating parts.

Use the correct attachments and any guards that go with them. Do not use a dull drill bit or a rounded screwdriver bit.

Inspect the tool before use.

Don't carry tools up and down ladders. Raise and lower them in buckets or other devices, or have someone hand them to you.

DRILLING

Mark your hole and set up the job so you can drill as straight as possible.

Don't hold a drill by the vents. An arc can burn your hands.

Use the handle that attaches to the side of the drill to reduce the chance of wrist injury as you break through the hole or if you have other high-torque demands.

Use a sharp drill bit that is appropriate for the material you are drilling.

Avoid turndown shanks. Using such shanks often causes you to exceed the capacity of the tool.

Use cutting fluid if appropriate.

Do not use a wood bit on a pre-existing hole. Doing so will bind the bit, and the twisting of the drill can injure-or even break-your wrist. It could also snap the bit and throw it in your face.

Make sure you are on good footing so you don't slip.

Use the right hole saw for the material, preferably one with a starter drill to reduce slippage. See the manual if in doubt.

If drilling masonry, use a masonry bit and a masonry drill or other tools made for that purpose. Do not use these tools for non-masonry holes.

De-burr any hole after making it.

CORDED TOOLS

Use corded tools with a GFCI, unless you have an assured grounding program. If you do have such a program, using a GFCI adds even more protection.

Avoid tripping hazards when laying out portable cords. Inspect portable cords before use. Never wrap a power cord or portable around your wrist, leg, or other body part. Keep cords out of water. Use industrial cords.

Match the capacity of the tool to the job.

Use tools or fixtures, rather than bare hands, to hold and support materials being worked on. For example, use clamps, pliers, vices, or pipe cutting tripods.

BATTERY TOOLS

A double-insulated battery-powered tool is very safe. It is not a license for carelessness. Drilling into a live conductor, even with such a tool, can be lethal.

Charge your battery before use, so you don't have to climb up and down ladders to get a replacement.

Don't use a battery-powered tool that is reaching the end of its charge. This is like using a worn screwdriver. Something will slip.

If you can use a self-locking chuck rather than key-tightened chuck, do so. This prevents slippage.

REVIEW AND DISCUSSION

- What is the minimum PPE for using power tools?
- What are some issues with work gloves and power tools?
- What do you need to do to avoid "catch" injuries from rotating parts?
- Why should you not use a dull drill bit or rounded screwdriver bit?
- When should you inspect a power tool?
- How should you get power tools to your work location if you are working on an elevation such as a ladder?
- If you need to set anchors in masonry, what kinds of power tools and attachments should you use? Not use?
- Why should you use the handle attachment when drilling? What are some drilling errors that can lead to injury?
- What are some rules for corded tools?
- What are some rules for battery powered tools?

SAFETY TRAINING TOPIC

The Safety Attitude

MYTHS vs TRUTH

Myth: Safety is someone else's responsibility. I just work here.

Truth: Safety is everyone's job.

Myth: Safety is a bunch of rules. I can do anything the rules don't prohibit.

Truth: The rules aren't there to punish you, they aren't perfect, and they can't cover every contingency. Safety is a matter of doing the job in a way that is safe. Coming up with novel ways to hurt yourself is not a mark of maturity or intelligence.

Myth: The foreman and safety director enforce the safety rules, so if they aren't looking, the rules don't apply.

Truth: The real enforcers of safety rules are injuries and death-why break the rules?

Myth: I shouldn't have to practice safety unless everyone else does.

Truth: If other people are foolish, that doesn't mean you must also be foolish.

Myth: Safety meetings are just a break from work.

Truth: Safety meetings are about helping you not get injured or killed.

Myth: Safety gear is just a hassle. Hardhats and safety glasses are a bother.

Truth: Getting your eye pierced with a copper wire is a hassle and a bother, to say the least. So are many other potential injuries.

Myth: Safety rules slow you down, and the company doesn't really want to sacrifice production.

Truth: Work accidents slow down work, and create time losses that are not recoverable. Your management has approved each safety rule with good reason, and all jobs are scheduled with time allowed for safety practices. If the schedule is off, work this out with your foreman rather than endangering yourself and others.

Myth: My foreman is talking about the other guy. It can't happen to me.

Truth: People with this attitude are the ones most at risk.

THOUGHTS TO KEEP IN MIND

The slogan "Safety is No Accident" means you eliminate accidents by purposefully putting safety in the front of your mind.

You are your brother's keeper, or sister's keeper as the case may be. This industry is a very dangerous one, and all of us must look out for each other. When you alert your co-worker to a safety concern, the implication is not that the other person is deficient. The expectation is that you are doing your part in keeping both of you safe.

The intelligent and mature person is always willing to benefit from the good safety advice of others. If someone helps you see you were doing an unsafe act, thank that person. The life just saved may have been your own.

Keep yourself physically prepared, so you can stay alert. Get your rest. Don't take illegal drugs. Use other drugs, such as liquor and over the counter medications, responsibly and not on the job.

WHAT TO LOOK FOR, WHAT TO ASK

Look for unsafe conditions when entering an area or starting a task.

Always ask yourself, "Is this the safe way to do this task?" Think in terms of "what if," and take the appropriate actions.

Ask others, "Do you think you are doing that safely?" if you think they are not. Safety is everyone's responsibility, individually and collectively. A friendly reminder may save the life of a friend.

REPORT

Report unsafe conditions to your foreman, and take any emergency measures needed to prevent an immediate danger. For example, put markers on a spill or clean it up.

Remember that an unrepentant, unsafe coworker is an unsafe condition, worse than is bad lighting or an oil spill.

Report injuries to your foreman.

REVIEW AND DISCUSSION

- Who is responsible for safety?
- If safety rules don't prohibit an action, does that make it safe? Why or why not?
- What are the real enforcers of safety rules?
- What is the purpose of safety meetings?
- Why should you not break safety rules to meet production quotas?
- In what way are you "your brother's keeper?"
- What should you ask yourself, when doing a job?
- What should you ask others when you see an unsafe act in progress?
- What should you do about unsafe conditions?
- To whom should you report injuries?

- Training Shops
- Safety Checklists
- Scenario Responses



August 2, 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



Training Shop

Temporary workers



Checklist

Transportation safety



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

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Employee upset supervisor yelled
at him for 'minor' safety violation

Reliance on safety training, good communication saved their lives

■ Ship crew good example of emergency response

A recent maritime incident resulted in no injuries and no fatalities thanks to two things safety professionals in any industry can appreciate: fast decision-making based on training and good, early communication.

The four-man crew of the *Rebecca Mary* reacted efficiently and quickly when the vessel began to sink while on its way back from fishing operations with what a National Transportation Safety Board report on the incident describes as a typical load weight.

Around 4 a.m. on the day of the incident, a bilge alarm sounded, and a

deckhand noticed the rear portion of the vessel was taking waves over the upper edge of its side.

Seawater began accumulating on the rear deck and over the top of a hatch leading to the vessel's aft-most under-deck compartment.

Early call to Coast Guard

The situation deteriorated rapidly, so the crew quickly donned their survival suits, and at 4:09 a.m., the captain made a distress call to the Coast Guard and activated the vessel's emergency radio beacon.

As he continued to pump seawater

(Please see Safety training ... on Page 2)

PANDEMIC

New directive reveals what COVID inspections target

OSHA issued guidance June 28 on its COVID-19 emergency temporary standard (ETS) instructing compliance safety and health officers (CSHO) on how to best work the standard's directives into inspections.

The ETS, which was published in the Federal Register June 21, is specific to the healthcare industry, and the inspection guidance establishes enforcement procedures for CSHOs conducting investigations at healthcare facilities.

Training, documentation, assessment

According to the inspection guidance, here are some things to expect during an investigation:

- The CSHO will request a facility's injury and illness logs (OSHA 300, 301 and OSHA 300A) for calendar years 2020 and 2021 to identify

work-related cases of COVID-19. They'll also request the COVID-19 log and inquire whether employees are aware of any recent cases among fellow employees.

- A facility's COVID-19 plan will be requested for review.
- The CSHO will need to review documentation to determine if a hazard assessment was conducted.
- Administrative and engineering control measures for physical distancing will be reviewed.
- Employee medical records and other documentation relating to COVID-19 exposure will be requested.
- The CSHO will want to review the respiratory protection program and any modifications made to respirator policies related to COVID-19.

WHISTLEBLOWER

Employer to pay \$222K to fired worker

OSHA ordered a Florida-based transportation company to pay almost \$222,000 in back wages and damages to a worker who was allegedly fired for reporting safety concerns.

The agency says CSX Transportation violated the Federal Railroad Safety Act after it allegedly fired the worker in December 2019 for reporting safety issues.

CSX was ordered to pay the employee \$71,976 in back wages, interest and damages and another \$150,000 in punitive damages, according to the Department of Labor.

History of retaliation

No details were provided on what the employee's safety concerns were, but a DOL news release does point to CSX demonstrating a pattern of retaliation against employees who report safety issues.

This recent investigation "is the latest example of CSX retaliating against workers for reporting safety

concerns," with OSHA ordering CSX in October 2020 to reinstate an employee who reported an unsafe customer gate and a work-related injury.

CSX was also ordered to pay more than \$95,000 in back wages and \$75,000 in punitive damages following that investigation.

Similar investigations and penalties occurred in 2010 and 2016 as well.

Safety training ...

(continued from Page 1)

from the rear areas of the vessel, the captain also provided radio updates to the U.S. Coast Guard.

Life raft deflates

Just after 5 a.m., realizing the ship could not be saved, the crew tied an inflatable life raft to the vessel's port side handrail and threw its canister overboard. This was the best location to perform deployment of the life raft, the NTSB report states.

The raft inflated successfully, but the *Rebecca May* rolled over in that direction as it sank and punctured the inflatable raft, instantly deflating it.

This forced the crew to jump into the water in their survival suits where they locked arms and waited for the Coast Guard rescue helicopter, which arrived at 5:07 a.m.

This is the type of response you want to see from employees during emergency situations, no matter what industry you may work in.

The crew members:

- reacted appropriately to the initial alarm
- communicated to one another about the changing situation while following procedures in attempting to save company property
- called for emergency services early as a precautionary measure
- donned appropriate PPE in the form of their survival suits as soon as they realized it was needed, and
- continued to rely on their training to adapt to changing circumstances in the form of their life raft deflating.

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 WORKER'S FATAL FALL RESULT OF HIS NEGLIGENCE?

"I'm still trying to get over it," Safety Manager Pete Travers said.

"I know, Pete," company attorney John Jenkins said. "And I hate to bring it up, but OSHA is citing us over Frank's incident, and I need to know what happened."

"I still can't believe he's gone," Pete said.

'He forgot to put his harness on'

"Frank was working on the upper floors of a building that was being built," Pete said. "His job was to install floor covers over the many openings scattered throughout those floors."

"It was a task he'd performed many times over the years, so he knew what he was doing, and he knew the safety precautions he should take," Pete continued.

"And let me tell you, Frank never worked without fall safety. Ever. He always worked safely," Pete added. "I never had to write him up once. That's why it's strange he didn't have his harness on that day."

"You mentioned he received a phone call," John said.

"Yeah, some of the crew said he got a phone call from his wife during break, and it sounded like they argued," Pete explained. "Then after break, he went back up on the upper floors, didn't put his harness on and wound up falling to his death through one of the floor holes."

"It seems like Frank was distracted and forgot to put his harness back on, so we can fight this," John said.

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

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

Safety COMPLIANCE ALERT

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STATE LAWS

Comp pays for weed? Courts weigh in

■ MEDICAL MARIJUANA REIMBURSABLE?
THE ANSWER IS A BIT HAZY

Is medical marijuana reimbursable through workers' compensation benefits? Courts in some states say yes, while others say no.

Here's what we know so far:

Courts ruling for reimbursement

The New Jersey Supreme Court ruled in April that an employer can be ordered to reimburse a claimant for reasonable costs related to medical marijuana that's part of a workers' compensation treatment, according to a report from the National Council on Compensation Insurance (NCCI).

In March, the New Hampshire Supreme Court ruled in the *Appeal of Andrew Panaggio* case that reimbursing a medical marijuana user for the drug in a work-related injury case is not impossible under the federal Controlled Substances Act (CSA) nor does the act of reimbursement thwart the purposes and objectives of federal law.

Likewise, a New York appeals court found in February that

reimbursement for medical marijuana in no way subverts the principal purposes of the CSA in combating drug abuse, particularly in the *Matter of Quigley v. Village of E. Aurora*, which involves a police officer who was authorized to use the drug to treat his chronic pain and reduce his reliance on opiates.

These courts ruled against it

In October 2020, the Massachusetts Supreme Judicial Court upheld the denial of a worker's claim because the state's medical marijuana law clearly states "nothing in this law requires any health insurance provider ... to reimburse any person for the expenses of the medical use of marijuana."

However, the court acknowledged there was no clear federal guidance on this situation, calling it a "hazy thicket" at best.

The Arkansas Workers' Compensation Commission ruled in June 2021 that workers' compensation insurers aren't required to reimburse for marijuana as a medical treatment, according to the NCCI report.

SUMMER HAZARDS

Extreme heat + out-of-shape workers = major risk

Heat stress is always a concern during the summer months, and this year is no different. Actually, it may be a little worse in 2021 with record-breaking, triple-digit temps already afflicting some western states.

NIOSH recommendations

To make matters worse, employees who have been in quarantine for months thanks to the COVID-19 pandemic may be returning to work out of shape and certainly not acclimated to the summer heat.

Further, while mask mandates may be lifting around the country, some workplaces may still require them for a variety of reasons.

Wearing a mask is like wearing

a scarf in winter – the cloth keeps body heat close, which is something you don't really need or want in extreme heat.

One thing law firm Seyfarth Shaw recommends to help employers with keeping workers safe in extreme heat is reviewing the National Institute for Occupational Safety and Health (NIOSH) webpage on heat stress, which offers guidance on:

- acclimatization
- how to spot heat-related illnesses
- how to limit the heat burden when wearing PPE, and
- recommendations for controlling heat stress.

Info: cdc.gov/niosh/topics/heatstress

TRENDS TO WATCH

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

■ ANOTHER STATE LEGALIZES RECREATIONAL MARIJUANA

Connecticut Gov. Lamont signed legislation June 22 legalizing recreational marijuana use by adults, and with that comes some provisions that will affect employers.

Provisions affecting employers won't be in place until 2022, according to law firm Jackson Lewis.

For employers, the new law:

- allows drug-free workplaces with written policies prohibiting possession and use of marijuana, with some exceptions for medical marijuana users
- prohibits, with some exceptions, discharging or taking adverse action against employees because they use cannabis outside of the workplace, unless the employer has a disseminated policy, and
- allows adverse employment action based on positive marijuana drug test results when the employer has an established drug testing policy stating that positive test results will result in adverse employment action.

■ OWNERS CHARGED WITH COMP FRAUD AFTER INJURIES

The co-owners of a Pennsylvania construction company were arrested on multiple criminal charges, including workers' compensation fraud, after two employees were seriously injured in falls at a Delaware jobsite.

Both employees, who were allegedly misclassified as contractors, were injured while working 20 feet off the ground with no fall PPE.

Brian McGarrity and Christopher Flanagan, owners of Mid Ulster Construction, were charged with fraud and related charges.

Flanagan and McGarrity were arraigned June 14 with bail set at \$200,000. A preliminary hearing was set for June 21.

Roundup of most recent OSHA citations

Go to www.SafetyComplianceAlert.com/fines for more OSHA fines and injury settlements.

Worker struck, killed by tractor with faulty horn

Indiana OSHA cited a steel mill after a worker was struck and killed by a coil tractor.

Officials confirmed George Salinas, 71, was hit by the tractor, but an official cause of death wasn't immediately available, according to the *Chicago Tribune*.

Citation documents indicate a Royal Ram T600C/SP coil tractor was being operated without a functional horn and that the horn had been reported but not immediately repaired. **Fine:** \$21,000

Company: ArcelorMittal Indiana Harbor, East Chicago, IN

Business: Steel mill

Reasons for fine:

Three serious violations for failure to:

- provide workplace free from recognized struck-by hazards that could cause death or serious physical harm
- take powered industrial truck found in need of repair out of service until restored to safe operating condition
- prevent powered industrial truck from being placed back in service despite non-operational horn

Worker injured in roof collapse: \$201K OSHA fine

OSHA cited a New Jersey roofing contractor after an employee suffered serious injuries when the roof he was working on collapsed, leading to fines totaling \$201,090.

Investigations at two worksites in Mahwah and Elmwood Park, NJ, resulted in willful and serious violations involving fall protection, ladder safety and head and eye protection.

Fines: \$91,866 (Mahwah); \$109,224 (Elmwood Park)

Company: Osman "Alex" Inestrosa doing business as Lifetime Contractor Corp., Trenton, NJ

Business: Roofing contractor

Reasons for fine:

Seven willful violations, including for failure to:

- ensure employees wore protective helmets in areas where head injuries were possible
- provide employees with eye and face protection where eye and face injuries were possible
- ensure employees working six feet or more above lower levels were protected by guardrail, safety net or personal fall arrest systems
- ensure ladder side rails extended three feet above upper landing surface

Three serious violations for failure to:

- keep scrap lumber with protruding nails clear from work area
- provide fire extinguishers within 50 feet of more than five gallons of flammable liquid
- ensure ladder side rails extended three feet above upper landing surface

1 dead, 23 sick from COVID after company luncheon

OSHA cited an Illinois warehousing employer after one employee died from COVID-19 and 23 others tested positive for the virus following a luncheon in the facility's breakroom.

Inspectors allegedly found the company failed to take immediate steps to identify, inform, isolate and quarantine all of the potentially exposed employees.

The inspection revealed the company failed to follow its own internally developed controls for potential coronavirus exposure.

On Nov. 4, 2020, following discussions with local health officials, the facility closed.

Fine: \$12,288

Company: Midwest Warehouse And Distribution System, Naperville, IL

Business: Warehousing and storage

Reasons for fine:

One serious violation for failing to:

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

WORKERS' COMP DECISIONS

Can deputy collect for PTSD after shooting incident?

A deputy sheriff filed a claim for post-traumatic stress disorder (PTSD) after a shooting incident. Can he collect?

What happened: The deputy and his partner shot and killed a man who was threatening them with a shotgun during a welfare check. The man fell near the deputy, who watched him die. Later, the deputy filed a PTSD claim.

Company's reaction: Your PTSD didn't come from extraordinary stress related to your job.

Decision: He could collect. This incident wasn't the type that's part of a deputy's daily routine, nor was it the expected result of a welfare check, according to the court.

Cite: *France v. Industrial Commission*, Arizona Supreme Court, No. CV-20-0068-PR, 3/2/21.

Object falls on worker after he cuts welds: Benefits?

A demolition worker was injured after heavy equipment fell on him when he cut the welds holding it up. Can he collect benefits?

What happened: The worker cut the welds holding up a 200-pound fire damper, causing it to fall onto him. He sued his employer for failing to provide a safe means to support the damper.

Company's reaction: Your injury was your fault for not using a scissor lift or scaffold as support.

Decision: He could collect after an appeals court granted summary judgment in his favor. The court said there was no evidence the worker should have known to use a lift or scaffold instead of the method that caused the injury.

Cite: *Mayorga v. 75 Plaza LLC*, NY Court of Appeals, No. 159760/16, 2/25/21.

REAL PROBLEMS, REAL SOLUTIONS

Embrace errors, don't hide them

Have you ever run a red light that you honestly didn't see until the last moment?

What went through your mind in the moment immediately afterward?

You were probably embarrassed at what you'd just done.

What do you think when you see someone else run a red light?

When we find someone else has made a mistake, it's easier to point out what their error was.

We think we know how to fix the other person's error.

What if you thought differently when you saw someone else make a mistake?

'I've been there'

Instead of taking the shame route, what if you thought, *I know what you're going through. I've been there.*

What happens when someone makes a mistake in the workplace and we share that thought – *I've been there?*

If we share that with the person who made the mistake, we alleviate the shame and judgment.

And that opens the door for amazing workplace outcomes, both for the organization and the individual.

People fear admitting their mistakes mainly because they don't like confrontation or conflict.

If we take away the shame, employees can try things, fail, and then try again, making changes until they get it right.

That's why I share errors I've made instead of hiding them.

It's key to improving organizational performance.

(From a presentation by Tim Page-Bottorff, Sr. Consultant, SafeStart, Belleville, ON, Canada, at the National Safety Council's Virtual Safety 2020One)

Taking the time to spot hidden hazards

How many times have you heard someone say, "I've walked by that a

thousand times and never noticed it?"

It's because they're not actually seeing what has been there the whole time.

As safety professionals, most of what we do relies on seeing. Our jobs are mostly about going and looking and seeing what's there in order to understand it and take action on what it is we're seeing.

But sometimes things become so familiar to us that we no longer really see them.

So how do we change these tendencies, not only for ourselves, but for workers who need to really see in order to stay safe?

'Reading' what you see

This is where visual literacy comes in.

Visual literacy is all about thinking about what we actually see, what does what we see mean and then figuring out what we can do about it.

In the safety world, that's what risk assessment and risk management is all about.

You see the hazard, you think about how to mitigate it and then you implement your plan to reduce the risk.

But hazards can be easy to miss, so what everyone needs to do is just slow down a little bit and take the time to really "read" what's being seen, in the same way a piece of art should be read.

You read what you see by taking in a scene's lines, shapes, colors, textures and space.

By analyzing each component independently, as you would a piece of art at a museum, you get a better understanding for what you're looking at.

And that could help workers spot a hazard they may not have seen otherwise.

(Adapted from a presentation by Doug Pontsler and Glenn Murray, both of the Center of Visual Expertise, Toledo, OH, at Virtual AIHce EXP 2021)

TRAINING TIPS

Time to remember the lowly manual pallet jack

When it comes to warehouses and equipment safety, the first thing that typically comes to mind is forklifts.

However, safety pros know they can't forget about the other staple of warehouse equipment, the manual pallet jack.

Manual pallet jacks are used by truck drivers and material handlers alike to move heavy pallets of freight on docks and inside trailers.

Because pallet jacks are easy to use and don't usually require special training to use, it can be easy to forget their use could lead to injuries, according to Washington State Department of Labor & Industry.

Before using a manual pallet jack, employees should:

- inspect the pallet jack before each use to make sure it's functional
- look for uneven floor surfaces, damaged dock plates and open dock edges that could destabilize a load, and
- always follow rules for safe equipment use.

Same-level falls can lead to traumatic injuries

When workers think about fall injuries, they probably think about how life changing a fall from heights could be.

But slipping and falling on the same level can be just as disastrous.

Take for example, a recent court case involving a teacher who fell and hit her head during a diabetic episode.

She hit her head on a desk, then on the floor, causing a host of injuries, including total loss of smell, dental and facial trauma, tinnitus, neck and shoulder pain, vertigo and post-concussion syndrome.

REVISED STANDARD

Cal/OSHA revises ETS based on guidance from health officials

California adopted a revised COVID-19 emergency temporary standard (ETS) June 17 based on guidance received from the state's Department of Public Health and the increased number of vaccinated individuals.

Governor Gavin Newsom signed an executive order enabling these new revisions to take effect immediately.

What's new

Revisions include:

- Fully vaccinated employees do not need to be offered testing or excluded from work after close contact unless they have COVID-19 symptoms.
- Fully vaccinated employees do not need to wear masks except in certain situations during outbreaks and in settings where health officials require everyone to wear them. However, employers must document the vaccination status of fully vaccinated employees, if they're not wearing masks indoors.
- Employees do not have to wear masks outdoors regardless of vaccination status.
- Employees are explicitly allowed to wear masks without fear of retaliation from employers.

- Physical distancing requirements have been eliminated except where an employer determines there is a hazard and for certain employees during major outbreaks.

Owners charged in \$3.8M comp fraud scheme

The owners of a flooring business in Sacramento, CA, were charged with three felony counts of workers' compensation fraud resulting in a \$3.8 million loss to three insurance companies.

Ryan Black and Curtis Davis, the owners of Apex Industry Solutions, allegedly underreported the company's payroll and employees by more than \$30 million to save on workers' compensation insurance premiums.

Investigators found Black allegedly had "a large number of flooring installation employees," and had reported minimal installation payroll to their current insurance carrier.

The investigation also revealed Black and Davis allegedly conspired to underreport payroll to two other insurance carriers they'd had in the past.

From 2013 through 2018, the

underreported payroll totaled about \$30 million, resulting in a loss of \$3,840,956 to the three insurance companies.

Teen worker loses arm to store's meat grinder

A 16-year-old supermarket worker lost his arm when the meat grinder he was told to clean started unexpectedly, resulting in the life-changing incident for the boy and a \$65,289 fine for the store.

Clarksburg Supermarket and its owners are facing fines from the federal Department of Labor and Tennessee OSHA for the incident and related violations.

Terry Altom and Kenneth Lovell, the owners of the store, violated the child labor requirements of the Fair Labor Standards Act (FLSA) when they allegedly allowed two 16-year-old workers to clean the meat grinder.

The FLSA bans employers from allowing minors to operate or clean powered meat processing machines.

This includes a prohibition on cleaning the equipment and parts, even when disassembled.

SHARPEN YOUR JUDGMENT – THE DECISION

(see case on Page 2)

Yes, Pete's company won when the court dismissed OSHA's citation, finding the company couldn't have predicted the worker would fail to put his fall harness on that day.

Among other things, OSHA claimed the company had constructive knowledge that the worker wouldn't wear his fall PPE, and that it just didn't adequately supervise him.

The company argued it "had a good safety program that was effectively communicated to its employees" and that the worker "was a well-regarded veteran employee who ... always wore a safety harness and attached lanyard when working around fall hazards."

Further, the company provided written proof it had disciplined employees for not following safety rules in the

past, which was supported by employees' testimonies that they knew they'd be disciplined for safety violations.

So the court found the company couldn't have had constructive knowledge that the worker would fail to put on his fall harness on the day of his fatal fall.

■ ANALYSIS: 'I'LL BE OK IF I SKIP A SAFETY STEP ONCE'

While this case illustrates the usefulness of having documented disciplinary action, it also demonstrates that it's never OK to skip a safety step.

This worker was known for consistently wearing his PPE. The incident in question seems to be the one time he skipped this step and it resulted in his death.

Cite: *Secretary of Labor v. Harvestland Constructors*, Occupational Safety and Health Review Commission, No. 20-0691, 5/13/21. Dramatized for effect.

Government notices on workplace safety

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

INJURIES

Amazon, a company that has been struggling lately with worker injury rates at its warehouses, and the National Safety Council (NSC) announced June 10 they have entered a five-year partnership to invent new ways to prevent common musculoskeletal injuries.

The two organizations plan to work together to prevent workplace injuries such as sprains and strains.

This new, "first-of-its-kind" partnership kicks off in June, during National Safety Month, and will focus its first year on launching an advisory council, identifying research partners, analyzing existing data and developing programs.

Amazon, which recently spent more than \$1 billion on new safety measures to address the 5.9 serious injuries per 100 workers injury rate at its warehouses, contributed \$12 million to make the partnership possible.

WHISTLEBLOWER

The Department of Labor (DOL) is suing a Pennsylvania manufacturer and its owner after they allegedly fired a worker who brought up safety concerns and asked several times for PPE to safely operate equipment.

Before the employee was injured while operating the equipment, a supervisor denied his multiple requests for safety gloves.

The lawsuit was filed in the U.S. District Court for the Middle District of Pennsylvania against Midvale Paper Box Co. and its owner David Frank.

Through the lawsuit, DOL seeks to:

- prevent Frank and his company from violating whistleblower provisions
- order them to reinstate and pay the

employee for all past and future lost wages resulting from the termination, and

- order them to post a notice stating that they will not discriminate against employees for engaging in whistleblower activities.

In October 2017, OSHA inspected the facility following a complaint the company failed to provide PPE and lockout/tagout training.

Following the inspection, the employee made two more requests for safety gloves and was allegedly denied both times. He was eventually fired, leading to the complaint with OSHA.

DOL says the company "terminated the worker in retaliation for multiple requests for gloves, participating in OSHA's safety investigation and their mistaken belief that the worker filed the safety complaint that initiated the investigation."

COURT DECISION

A lawsuit workers brought against a hospital over a mandatory COVID-19 vaccination policy was rejected by a federal judge who found "the public's interest in having a hospital capable of caring for patients during a pandemic far outweighs the vaccination preferences of 116 employees."

The employees of Houston Methodist Hospital had either already been fired or were in danger of being terminated, so they requested a temporary restraining order to block enforcement of the policy, which the judge denied, according to law firm Greenberg Traurig.

The federal judge for the Southern District of Texas found the claims failed because the state's wrongful termination law only protects employees from being terminated for refusing to commit acts that would result in criminal penalties for the worker.

Since the employees didn't claim an illegal act was involved, their case failed.

Their coercion claim also failed because the judge said they could freely reject the vaccine and find work elsewhere.

WHERE TO GET HELP

■ RESOURCES FOR NAVIGATING THE COVID HEALTHCARE ETS

The Association of Occupational Health Professionals in Healthcare (AOHP) released a comprehensive list of resources for navigating federal OSHA's COVID-19 Healthcare Emergency Temporary Standard.

The document is meant to provide information about the COVID-19 ETS and to help implement worker protections based on the standard's requirements.

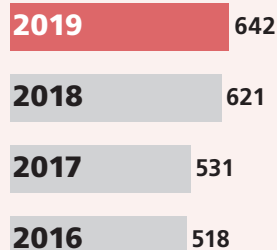
This includes:

- a COVID-19 plan template
- a worksite checklist and hazard job analysis
- webinars, and
- various tools and information on the ETS.

More info: aohp.org/aohp/COVIDVaccine.aspx

What safety officers told us

Over the past several years, the number of fatalities from harmful environments or substances has increased. True or false?



Source: U.S. Bureau of Labor Statistics

Harmful environments/substances include extreme heat, which caused 53 deaths in 2019, and electricity, the cause of 166 deaths in the same time frame.

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

WHAT WOULD YOU DO?

Here's a challenging scenario you could encounter. We've asked three of your peers what they'd do. How would you handle it?

Employee is upset supervisor yelled at him for 'minor' safety violation

The Scenario

Manager Mike Kelly was walking to his office after lunch.

"Yo Mike, you have a minute?" John Randall, a production worker, asked as he walked up next to Mike.

"Sure, John, just come on into my office and we can chat," Mike replied.

Mike walked into his office and sat down behind his desk. John closed the door and stood in front of Mike's desk.

"Make yourself comfortable," Mike said, gesturing toward a chair.

"I'm kind of too angry to get comfy, Mike," John said.

'He could've pulled me aside'

"I see," Mike replied. "Can you tell me why you're angry?"

"Yeah, you'll be hearing about it soon anyway," John said.

"OK, you've definitely got my attention," Mike said.

"I was working on the production line when Jake Halloway, the foreman, started yelling at me for a minor safety thing," John explained.

"A minor safety thing?" Mike asked.

"I didn't have my safety gloves on while I was working," John said.

"But he yelled at me and gave me a verbal warning in front of everybody."

"You know he was right in telling you about the safety violation, right?" Mike asked. "We provide safety gloves for a reason."

"Yeah," John responded sheepishly. "But he didn't have to yell about it. He could've pulled me aside or something."

If you were Mike, how would you handle this situation?

 Click www.safetycompliancealert.com/category/what-would-you-do/ to see other safety pros' comments on challenging scenarios

Reader Responses

1 Roy McConnell, H&S Coordinator, Veolia NA, Johns Creek, GA

What Roy would do: A discussion with John about the reason for the gloves and the importance of wearing them for protection is appropriate.

Reason: Also, have a follow up discussion with HR and Jake about the concern that was brought up by John.

Jake may not realize he may have been doing something wrong and the discussion may necessitate some additional training for Jake.

2 Sean Wilkinson, Safety Manager, Yancey's Fancy Inc., Corfu, NY

What Sean would do: I'd tell him I'd talk to the line supervisor about

having those conversations in a more private area.

Reason: If the employee was in the wrong, and there was a serious threat the supervisor was concerned about, his yelling may have been to get the employee's attention and fix the situation before a major catastrophe could occur.

3 Dan Caracio, Risk Manager, Pencor, Palverton, PA

What Dan would do: I would reinforce the need for wearing safety gloves with the employee and follow up with a conversation with the supervisor.

Reason: The supervisor should be complimented for managing the PPE program, but I'd want to recommend he be stern but not demeaning to the employee.

OUTSIDE THE LINES

■ BUT WHERE WOULD I PUT MY KEYS AND WALLET?

Bicyclists riding in Philadelphia's annual Naked Bike Ride will have to wear at least one thing at this year's event in August – a mask.

After a one-year hiatus due to the pandemic, those who wish to bike nude through the streets of Philadelphia for the event can do so.

However, organizers have requested that participants wear masks for protection against exposure to COVID-19, according to National Public Radio.

Speaking of exposure, don't you think you'd want to, you know, wear something in case you crash?

A helmet is always a good idea, as are knee and elbow pads.

And maybe some pants, because well ... road rash.

You know, actually I think I'll just pass on this, thanks.

Did you know ...

Workers under age 18 cannot operate forklifts



It's a **violation of federal law** for anyone under **18 years of age** to **operate a forklift**.

Source: OSHA

The same applies to adults who aren't properly trained. Forklifts aren't cars, so just because someone has a license to drive doesn't mean they can operate a forklift.

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



August 16, 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



Training Shop

Transportation safety



Checklist

Walkways and stairs



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

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Oregon adopts heat emergency standard after worker's death

8 Answers to Tough Questions

OSHA can use GDC in heat stress cases under certain circumstances

Report: Extreme heat leads to higher risk of workplace injuries

■ Increased temps factor into other job hazards

New research reveals work-related injuries connected to extreme heat are greatly undercounted.

High temperatures cause a great deal more workplace injuries than data from workers' compensation claims and other official records show, according to the research.

Researchers found that on days when temperatures were 85-90 degrees Fahrenheit, the overall risk of workplace injuries, no matter the official cause, was 5% to 7% higher than days when temperatures were in the 60s, a *New York Times* story on the research states.

Temperatures of 100 degrees or higher led to a 10% to 15% greater risk of injury.

19 times higher than official data

That means extreme heat "is likely to have caused about 20,000 extra injuries a year, or 360,000 extra injuries over the 18-year period" the researchers said.

Official data reflected an average of 850 injuries per year classified as related to extreme heat.

This comes to about 19 times the annual number of heat-related workplace injuries recorded in

(Please see Extreme heat ... on Page 2)

CRIMINAL CHARGES

Owners guilty of hiding info during investigation

The owners of a Nebraska railcar cleaning company pleaded guilty July 12 to hiding information from OSHA during the agency's investigation into a fatal explosion and for violating worker safety standards and environmental regulations.

Steven Braithwaite, president and owner of Nebraska Railcar Cleaning Services LLC (NRCS), and Adam Braithwaite, the company's vice president and co-owner, also pleaded guilty to conspiracy and submitting false documents to OSHA.

Steven Braithwaite is facing a maximum penalty of 15 years in prison and a \$750,000 fine.

Adam Braithwaite is looking at a maximum penalty of 20 years in prison and a \$1.25 million fine.

NRCS is facing a maximum penalty of five years' probation and a

\$9.5 million fine.

Sentencing is scheduled for Oct. 25.

Covered up lack of safety

NRCS offered rail tanker car cleaning services which involved sending employees inside the tanks to scrape and remove residual gasoline, ethanol and petroleum by-products.

On April 14, 2015, two NRCS workers were sent into a tanker car and were killed when the contents of the car ignited and exploded while they were inside cleaning.

OSHA accused the company of failing to implement worker safety standards and covering that fact up during the inspection.

Further, NRCS was accused of mishandling the hazardous waste it removed from tanker cars during the cleaning process.

COURT ORDER

\$95K paid to driver fired for concerns

An Illinois waste management company was ordered July 6 to pay \$95,000 in lost wages to a truck driver fired for reporting an injury and raising safety concerns.

The court order follows an OSHA investigation that found after the driver voiced their concerns about an unsafe vehicle, the company assigned the vehicle to a different employee, assigned the driver to an unfamiliar truck then fired them after they reported an injury while driving that vehicle.

Assigned to unfamiliar vehicle

In addition to paying the lost wages, Advanced Disposal Services Solid Waste Midwest must also add a copy of the court order to the driver's personnel record and post a notice of whistleblower rights in a common area of its Northbrook, IL, facility.

OSHA investigators found the driver went to a company manager regarding safety concerns they had about a specific truck.

The manager then assigned the unsafe vehicle to a different driver and assigned the driver who reported the safety issues to a vehicle they were unfamiliar with where they later injured a finger and had to go onto light duty.

The company investigated the incident and said it was the driver's fault.

Extreme heat ...

(continued from Page 1)

workers' compensation data, the report states.

Regs help, but just a little

The researchers also found regulations to protect workers from extreme heat hazards do help bring the injury rate down, but not drastically.

Data showed the link between extreme heat and workplace injuries in California weakened after 2005, which is the same year the state began requiring employers to protect workers from heat hazards.

However, this link didn't disappear following the state mandate; it decreased by about one-third.

The working paper with these findings was made public July 19.

Research methods

In making the connection between extreme heat and work-related injuries, researchers analyzed California workers' compensation injury reports from 2001 to 2018 to build a database of more than 11 million injuries that included the date and location of each injury.

R. Jisung Park, a professor of public policy at the University of California, Los Angeles, and the co-authors of the report, Nora Pankratz and A. Patrick Behrer, combined the workers' comp data with temperature highs for each date and location.

This allowed them to see if the number of injuries increased on days with higher temperatures along with how much it increased.

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.

■ DID SUPERVISOR REALIZE HE WAS BREAKING SAFETY RULE?

Safety Manager Pete Travers was making some changes to his extreme heat safety training program.

"I can't wait for summer to be over," Pete said.

"Yeah, it's been way too hot this year," company attorney John Jenkins asked as he walked into the office.

"Did you just agree with me?" Pete asked.

John looked at Pete for a long moment.

"Let's never speak of this again," John said.

'Didn't think roof was that high'

"OSHA is citing us, Pete, and I need some information," John said.

"I'm assuming this is about the shed incident," Pete replied.

John nodded his head yes.

"A supervisor, Juan Carillo, and an employee, Sean Corden, were supposed to make some repairs to the roof of this tool shed," Pete began.

"The shed stands about 9 feet tall, which means it's high enough they should have used fall protection," Pete explained. "But neither of them thought the roof was all that high, so they really didn't give a thought to safety precautions.

"Long story short, an OSHA inspector drove by and saw Sean on the roof without fall PPE, which resulted in the citation," Pete said.

"If they knew the rules, but chose not to follow them, then we can fight this," John said.

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

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

Safety COMPLIANCE ALERT

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■ PANDEMIC

COVID enforcement guidance updated

■ INTERIM RESPONSE PLAN, NATIONAL EMPHASIS PROGRAM CHANGES

OSHA recently revised its National Emphasis Program (NEP) for COVID-19 and updated its Interim Response Plan for enforcement of COVID-related violations while simultaneously extending the comment period for the coronavirus emergency temporary standard (ETS).

Some discretionary enforcement protocols have been revoked as states begin to reopen and the agency has brought its enforcement guidance to be more in line with the ETS.

Revised NEP and enforcement

OSHA launched its COVID-19 NEP March 12 to “focus on companies that put the largest number of workers at serious risk” as well as to address employers retaliating against employees complaining about unsafe conditions.

The agency evaluated inspection and illness data leading to a revised NEP, issued July 8, that targets the most at-risk industries, but still includes healthcare and meat and

poultry processing facilities, according to an OSHA news release.

An appendix that included a list of secondary target industries was removed from the NEP following analysis of the inspection and illness data.

The NEP now points OSHA inspectors to the Inspection Procedures for the COVID-19 ETS, which was released June 28, and updated July 8.

Updates to the procedures include:

- enforcing protections for workers in non-healthcare industries who are unvaccinated
- revoking enforcement discretion for temporary noncompliance with the Respiratory Protection Standard where respirator supplies and services are readily available, and
- ensuring workers are protected from retaliation.

Extended comment period

OSHA announced July 8 that it will publish a notice in the *Federal Register* extending the comment period on the COVID-19 healthcare ETS to Aug. 20, 2021.

This was to allow stakeholders more time for review.

■ COURT DECISION

Court: Evidence shows trench violation is valid

A citation against a construction company for an alleged trench violation still stands following a July 7 decision by the U.S. Court of Appeals for the Fifth Circuit.

The court found there was substantial evidence supporting OSHA's allegations that the company had employees working in a trench that wasn't properly benched and sloped.

DeNucci Constructors LLC received a citation from OSHA after a compliance specialist on her way to a conference noticed construction workers in an unsafe trench.

The specialist called the local OSHA office that had jurisdiction, and an inspector was sent to investigate

the alleged violation later that day.

During the investigation, the inspector took measurements of the trench and determined there was a violation.

Changes made to trench?

DeNucci fought the citation, saying further excavation of the trench, and additional benching measures, caused it to fall into compliance between the time the specialist saw it and when the inspector arrived to take measurements.

On appeal, the court agreed with a prior decision that there was evidence two of the trench walls weren't properly benched at any time during the day of the inspection.

TRENDS TO WATCH

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

■ MODEL HERO ACT INFECTIOUS DISEASE PLANS AVAILABLE

New York State's Airborne Infectious Disease Exposure Prevention Plan was published July 6, providing a general model for employers along with several that are industry-specific.

These models were published under the Health and Essential Rights (HERO) Act, which was signed into law May 5 by Governor Andrew Cuomo.

HERO covers most private sector businesses with worksites in New York State, with employees covered by federal OSHA temporary or permanent COVID-19 standards being the exception, according to law firm Cozen O'Connor.

A plan must be adopted by Aug. 5, 2021, but it doesn't need to be in effect until the state's Commissioner of Health designates an infectious disease as a highly contagious and communicable infectious disease that presents a serious risk of harm to public health.

■ EMERGENCY WILDFIRE SMOKE RULES ADOPTED

Washington State adopted emergency rules July 16 protecting workers from wildfire smoke.

The new wildfire smoke rules are meant to help employers identify exposure risks and determine when to notify their workers of the hazard.

They also require employers to:

- train employees and supervisors about wildfire smoke
- ensure employees showing symptoms of exposure are monitored and receive medical care when necessary, and
- take action to eliminate or reduce exposure where feasible when levels of particulate matter are high, including providing N95 respirators at no cost to workers.

Roundup of most recent OSHA citations

Go to www.SafetyComplianceAlert.com/fines for more OSHA fines and injury settlements.

Fatal injuries in trench lead to \$90K OSHA fine

A Texas contractor was cited by OSHA after one of its workers died after suffering abdominal puncture injuries at a jobsite.

While installing a sewer pipeline for a new commercial construction project, the employee and a co-worker were attempting to connect PVC pipe to the steel connector of a horizontal drill system.

The co-worker was operating the drilling equipment when the PVC pipe began to rotate violently. The employee got caught between the pipe and the trench box and was fatally injured.

Fine: \$90,000

Company: Cracon Inc., Missouri City, TX

Business: Water and sewer line construction

Reasons for fine:

One willful violation for failure to:

- provide workplace free of recognized fall hazards by allowing employees to ride in bucket of link-belt excavator

Two serious violations for failure to:

- guard moving parts of equipment exposed to contact by employees
- follow manufacturer's specifications for design of protective systems

Steel truss falls on, kills employee: \$75K fine

Although a Connecticut construction company managed to get a \$141,686 fine reduced, it's still in hot water with OSHA over five violations found after an employee fatality.

While a worker was using a chop saw to cut steel support pieces, an overhead steel truss collapsed. The employee was killed by severe head trauma.

Fine: \$75,000

Company: Alva Interiors Inc., Rocky Hill, CT

Business: Framing contractor

Reasons for fine:

One willful violation for failure to:

- maintain structural stability at all times during the steel erection assembly process

Four serious violations for failure to:

- train employees to recognize unsafe conditions
- train employees doing connecting work about hazards specific to connecting
- ensure loads were rigged by qualified employees
- pre-plan overhead hoisting operations during steel erection

Worker dies while trapped inside machine: \$448K fine

A Texas farm supplies wholesaler is facing a \$448,303 fine following an OSHA investigation into a fatality involving a worker who died after becoming trapped in a machine.

The worker was pronounced dead at the scene.

Several other employees were present when the worker – who had been with the company for about five years – became trapped in the machine, according to Fox 7 News.

Fine: \$448,303

Company: Bentoli Inc., Elgin, TX

Business: Farm supplies merchant wholesalers

Reasons for fine:

Three willful violations for failure to:

- ensure employees on working surfaces with unprotected edges 4 feet or more above lower level are protected from falling
- conduct periodic inspections of energy control procedures to ensure procedures are being followed
- ensure lockout/tagout devices were affixed to each energy isolating device by authorized employees

Three serious violations, including failure to:

- ensure lockout/tagout devices indicate identity of employee applying device
- ensure powered industrial truck operators were competent to operate powered industrial trucks safely

WORKERS' COMP DECISIONS

Can he get benefits for falling on a public bus?

A worker was injured when he tripped and fell exiting a public shuttle bus on his way to work. Can he collect benefits?

What happened: The worker tripped over his own feet as he was exiting the public bus in front of the employer's office. He injured his left foot and ankle in the fall.

Company's reaction: You weren't on the clock or on company property when you were injured.

Decision: He could collect. Because the bus had stopped and he fell onto the curb in front of his employer's office, he was no longer commuting and was technically on the premises, according to the court.

Cite: *Stewart v. Bravo Group Services*, Commonwealth Court of PA, No. 812 CD 2020, 7/2/21.

Worker develops neck, back pain over time: Benefits?

A worker sustained neck and back injuries over time while operating heavy construction equipment. Can he collect benefits?

What happened: A heavy equipment operator developed pain in his neck and back after operating an excavator to move rocks on construction sites over a long period of time. When the pain became too much to bear, he filed a claim.

Company's reaction: Your work triggered a pre-existing condition, but wasn't the cause of it.

Decision: He could collect. There was sufficient medical evidence to prove his work duties caused soft tissue injuries that worsened his preexisting condition.

Cite: *State ex rel. WSI v. Sandberg*, ND Supreme Court, No. 20200174, 3/3/21.

REAL PROBLEMS, REAL SOLUTIONS

Training changes during COVID will stay

COVID-19 forced a lot of business practices into the virtual world, including safety training.

Here's an example: We had new equipment, and our workers needed to be trained on how to use it safely.

Instructor couldn't come to us

The instructor who would normally conduct training in person couldn't come to our worksite because of the pandemic.

So we turned to virtual reality training. This was our first experience with it.

It went well, in fact so well that we'll continue to use it after the pandemic is over.

More training methods

Overall in Safety, some of the things we deployed because of the coronavirus actually work very well, and we'll continue to do them after COVID-19.

By changing some training methods during the pandemic, we learned there's no one way to deliver safety training.

As a result of making these changes, we now have our safety training in a number of formats, and it can be presented in a number of different ways.

(Based on a presentation by Noreen Cleary, Chief HR Officer, USG, Chicago, at the National Safety Council's Virtual Congress 2020One)

Bolstering employee emergency preparedness

A great way to increase employee engagement in safety is to involve them in teams that develop, evaluate and provide training on emergency drills.

The U.S. Department of Defense has a really good program along these lines, called Drop Cards.

Drop Cards

An employee takes a card that has an emergency scenario on it and gives it to another employee.

In that moment, the other employee reads the card and, based on the scenario, will react appropriately, understanding that this is a drill.

The employee who brought the Drop Card will observe what the other worker does and provide a critique.

This not only involves employees in safety, it also really bolsters their emergency preparedness.

(Adapted from a presentation by Brad Baptiste, OSHA Regional VPP Manager, Denver, at VPPPA's Next Level Safety conference)

How to ask the questions no one else wants to ask

Have you ever been in a meeting where you had a question, but you didn't ask it?

Many people experience this, so much so that there's a name for it: "pluralistic ignorance."

That's when you have an opinion and everyone else in the room has a different opinion than yours.

But the truth is if you've got a question, there's a sizable percentage of people in the room that probably have the same question as you and are also reluctant to ask.

But some questions are extremely important, such as, "Do they realize somebody could get hurt if we follow that new procedure?"

Failing to ask an important question could lead to disaster.

Write it down

What's being left unsaid at your workplace that could cause injury or disaster? Write it down. Think about whether there's someone you can say it to because it will make a difference and it will give you some power over the situation.

And it could save a life.

(Adapted from a presentation by John Austin, CEO, Reaching Results, Kalamazoo, MI, at VPPPA's Next Level Safety conference)

TRAINING TIPS

Even light duty can claim a life in extreme heat

Timothy Barber, a 35-year-old worker assigned to the Genesee River Bridge Project in western New York, collapsed from heat exhaustion at the end of his shift July 7, 2020.

Barber was treated for heat stress, but later died from hyperthermia.

It was his second day on the job.

OSHA investigators found Barber was doing light duty work that day, sorting bolts in 90-plus degree temperatures.

He worked alone, without shade or water, and wasn't acclimated to the heat.

His employer didn't provide training on extreme heat hazards, according to the Department of Labor.

Employers with workers exposed to high temperatures should have a heat illness prevention program that's clearly communicated to supervisors and workers.

OSHA says three simple things – water, rest and shade – can save workers' lives in extreme heat.

Staying safe while working with power tools

About 200 power tool-related incidents occur every year in the maritime industry alone, according to OSHA.

To prevent injuries from power tools, workers should be trained to:

- Keep all tools in good condition with regular maintenance
- Use the right tool for the job
- Examine each tool for damage before use and do not use damaged tools
- Operate tools according to the manufacturers' instructions, including proper tool orientation and use of accessories or attachments, and
- Use the right PPE for the task.

EXTREME TEMPERATURES

Oregon adopts heat emergency standard after worker's death

Emergency rules to protect Oregon workers from extreme heat have been adopted by the state's Occupational Safety and Health Division following the heat-related death of a farmworker June 26.

On July 8, the state agency adopted an emergency temporary standard (ETS) as Oregon continues to face extreme temperatures that have already killed more than 100 people.

The state is working on a permanent heat standard, but the recent heatwave across the western U.S. that has seen temperatures reach 104 degrees or higher led to the push for an ETS following the death of Sebastian Perez.

OSHA investigation

Perez was found unresponsive in the field at the end of his shift, and Oregon OSHA attributed his death to the extreme heat, leading to an ongoing investigation of Ernst Nursery and the company that provides its workers, Brother Farm Labor Contractor.

What's required

The requirements in Oregon's emergency rule depend upon the heat index, a combined measurement of

heat and relative humidity.

When the heat index is 80 degrees or higher, employers must provide:

- access to sufficient shade, and
- an adequate supply of drinking water.

When the index rises above 90, the rules for 80 degrees apply and employers must also:

- ensure effective communication between employees and supervisors
- ensure employees are observed for symptoms of heat illness
- provide cool-down rest periods in the shade of 10 minutes for every two hours of work, and
- develop and implement a plan and practices to gradually adapt employees to working in the heat.

OSHA issues enforcement guidance for tree care

OSHA compliance safety and health officers (CSHOs) received new enforcement guidance July 13 for the tree care industry.

The guidance applies to inspections of tree care and tree removal operations.

This document highlights hazards faced by workers in these operations

and provides CSHOs with guidance on the standards typically applied to address hazards in the industry.

Some of the issues addressed include falls, struck-by hazards in the form of falling objects, use of PPE, electrical safety, noise exposure, hand and portable power tools, machine guarding and first-aid kits.

Owner gets jail time after worker is killed in trench

Bryan Johnson, owner of Colorado-based ContractOne Inc., was sentenced July 15 to 10 months in jail for two counts of reckless endangerment and one count of third-degree assault related to the workplace death of Rosario Martinez.

He also must pay \$25,000 in restitution to the Martinez family.

Johnson pleaded guilty to the charges on June 16, 2021.

An OSHA investigation into the June 14, 2018, trench collapse found that Johnson hired Martinez to install drywall and do carpentry work, but didn't train him or other workers on trenching and excavation hazards.

SHARPEN YOUR JUDGMENT – THE DECISION

(see case on Page 2)

No, Pete's company lost.

The actual details of the case involve the owner of a car lot who was monitoring his in-house handyman while repairs were performed on the shed with the 9-foot-high roof.

While the owner didn't seem to be all that aware of OSHA's standards on fall safety, he did claim he made himself available to act as a spotter for the handyman as he worked on the low roof.

However, as OSHA pointed out, the owner wasn't around every moment the handyman was on the roof, so with no spotter and no fall PPE, the worker was exposed to a fall hazard of 9 feet.

Further, the court pointed out that a spotter or monitor

must be on the same level as the worker, but the owner had been on the ground the entire time.

■ ANALYSIS: 'BASIC TASKS' AND SAFETY

The owner and employee in this case didn't seem to give the hazards of the work being done any thought.

Since the roof was "only" 9 feet in height, and this was nothing more than a simple patch job, neither person could envision any kind of risk.

Unfortunately, supervisors, managers and workers can easily get in this mindset when doing what seem like basic, no-risk tasks. The problem is, those tasks do have very real risks, so reminding them to remember safety is warranted.

Cite: *Secretary of Labor v. Far From Broken Auto Sales*, Occupational Safety and Health Review Commission, No. 20-0415, 5/25/21. Dramatized for effect.

Government notices on workplace safety

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

MINE SAFETY

The Mine Safety and Health Administration (MSHA) issued two safety alerts July 12 regarding incidents – some fatal – involving vehicle rollovers and powered haulage.

MSHA says miners continue to die in rollover crashes and that powered haulage incidents are occurring at a disproportionately high rate.

The recent fatalities occurred when vehicles flipped over backward or rolled over onto their sides, according to MSHA's alert on rollover incidents.

In addition to the fatal incidents, multiple similar incidents occurred resulting in serious injuries.

Some factors that contributed to these incidents include:

- non-use or unbuckling of seat belts
- brake failure, and
- distracted driving.

Fatalities and injuries involving vehicles such as shuttle cars, scoops, locomotives, haulage equipment and pickup trucks also continue to occur at a high rate, according to MSHA's alert on powered haulage.

MSHA recommendations to prevent these incidents include:

- knowing where in the workplace others are and communicating with them to stay clear of blind spots
- setting parking brakes and chocking the wheels of unattended vehicles
- ensuring seat belts are maintained in good condition and worn at all times, and
- ensuring conveyors are de-energized, locked, tagged and blocked against motion before removing guards or beginning work.

COURT DECISION

The federal court for the District

of Colorado rejected a lawsuit July 9 from a FedEx Ground employee who wanted to sue the company over its mandatory mask policy.

FedEx Ground argued that it was following a mandate issued by the state of Colorado and couldn't be held liable since it was obligated to follow the state's rules. The judge agreed and dismissed the case.

The worker claimed he had health problems and refused to wear a mask, but he wouldn't disclose what the health problem was, claiming it was protected information under the Americans with Disabilities Act (ADA).

His lawsuit was filed solely against FedEx Ground and didn't involve an ADA claim, so the judge found for the company since it was simply following a directive issued by the state during a public health emergency.

TEEN WORKERS

The operator of two specialty grocery stores in two states had to pay \$27,274 in civil penalties to the Department of Labor after an investigation revealed workers under the age of 18 were cleaning powered meat mixers and grinders.

Investigators from the Wage and Hour Division found that a 15-year-old and three 16- and 17-year-old employees were allowed to clean the hazardous meat processing equipment, which is a violation of the Fair Labor Standard Act (FLSA).

The employees involved in cleaning the hazardous equipment worked at the On The Vine Marketplace located in Scarborough, ME.

Investigators also found child labor law violations at another store location in Exeter, NH, according to a Department of Labor news release.

Teens working at the Exeter store were working longer hours than what the FLSA allows, which factored into the overall fine amount.

The fine amount reflects the finding of similar violations in a previous investigation at the Exeter location.

WHERE TO GET HELP

■ PREVENT ENVIRO HAZARDS DURING STORM SEASON

Tropical storms can pose environmental health and safety hazards such as:

- carbon monoxide fumes from using generators in poorly ventilated areas, and
- lead, asbestos and mold growth exposure after water damage.

Inhaling mold can cause adverse health effects, including allergic reactions.

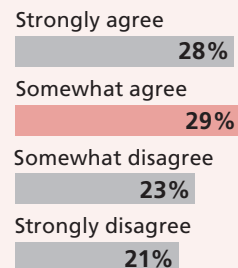
Mold also can damage materials in your home.

In addition, flood water may contain microorganisms, such as bacteria, as well as toxic chemicals and other hazards.

Info: epa.gov/indoor-air-quality-iaq/resources-flood-cleanup-and-indoor-air-quality

What safety officers told us

Most workers feel masks should still be worn on the job to protect them from COVID-19. Agree or disagree?



Source: The Harris Poll 2021 Workforce Monitor on masking anxiety

The poll revealed that many U.S. workers with children under the age of 18, Hispanic and Black adults, and people living in the western U.S. felt masks should continue to be worn.

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

ANSWERS TO TOUGH SAFETY QUESTIONS

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

EXPERTS' SOLUTIONS

OSHA can use General Duty Clause in heat stress cases under certain circumstances

Q: Can OSHA cite a company under the General Duty Clause (GDC) for exposing employees to extreme heat?

A: Yes, but a court recently set a high bar for OSHA to use the GDC for this hazard, according to Courtney Malveaux, attorney with Jackson Lewis PC.

Historically, OSHA has protected workers against extreme heat by using the GDC which requires employers to provide employment free of recognized hazards.

However, in a 2019 case, the Occupational Safety and Health Review Commission set a high bar for use of the GDC in cases involving heat exposure.

OSHA recommends employers set thermostats between 68 and 78 degrees Fahrenheit.

OSHA guidance also suggests employers should:

- provide workers with water and rest
- allow new or returning workers to gradually increase workloads
- train workers on prevention, and
- monitor workers for signs of illness.

Not in healthcare? You can still be cited for COVID issues

Q: Can OSHA still issue citations for COVID-19 violations if an employer doesn't fall under the COVID emergency temporary standard (ETS)?

A: Yes, OSHA will use the General Duty Clause along with specific

standards it feels apply to a given situation, according to law firm McCarter & English.

And don't forget that along with the ETS, OSHA issued guidance for general industry to assist employers and workers who don't fall under the ETS.

This guidance is meant to help employers implement COVID-19 prevention programs and identify risks that could lead to employees being exposed to the virus.

Combining training and general safety standards

Q: How does ANSI/ASSP Z490.1 combine with an organization's existing safety management system?

A: The Z490.1 standard should be an integrated, aligned part of an organization's safety management system, according to Jeff Dalto, Senior Learning & Customer Advocacy Manager at Vector Systems.

Safety training shouldn't be a siloed, isolated effort that's unconnected to real safety hazards, according to Dalto.

The same principles that apply to safety management apply to safety training, including working with other departments and getting workers engaged in risk identification.

A Z490.1 update is expected late in 2020 or early in 2021.

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

OUTSIDE THE LINES

■ WE BUILT THIS CITY ON ... BOWLING BALLS?

We've all heard the horror stories about companies burying toxic waste, tearing down the plant at some point in time and then eventually a housing development gets built on top of the site.

Well, one Michigan man discovered July 11 that his house was built on the site of an industrial dumping ground.

But instead of toxic waste, David Olson found 160 bowling balls under his house, according to the *Associated Press*.

Olson contacted the maker of the balls, Brunswick Bowling Products, which had a plant in the area back in the 1950s.

Some former employees contacted him and told him workers used to take scrapped bowling balls to use as filler instead of gravel or sand.

Did you know ...

When operating a lawn tractor, wear proper attire and PPE



Close-fitting clothing, safety shoes and hearing protection should be worn while operating a lawn tractor.

Source: Canadian Centre for Occupational Health and Safety

In the U.S., 6,394 people sustain serious injuries each year in lawn mower accidents, a new research study from Johns Hopkins states, according to *The Washington Post*.

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