



Oregon Pacific-Cascade

Local Union #932

Joint Safety Committee
Oregon Pacific-Cascade Chapter, NECA
IBEW Local 932
Wednesday July 28, 2021
Meeting Minutes

Roll call; meeting called to order (Sign in Sheet)- [VIA Zoom](#)

Approval of Meeting Minutes

1.0 Communications

1.1 OR-OSHA- High and extreme heat ETS NIOSH App

1.2 Forest Fires 2021- Action Plan- AQI App

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

2.1 Safety Packet Review

2.2 EC Magazine (May 21)

2.2.1 NSC Expanded definition “Workplace Impairment”-

2.2.2 Labor shortage- Impact to industry

2.3 EC Magazine (June 21)

2.3.1 Infrastructure plan- boom to industry (Local 280)

2.3.2 Repercussions of pandemic on commercial office space/culture

2.3.3 Smart Grid- station expansion

2.4 Safety & Health Magazine (May 21)

2.4.1 Cyber Attack on Pipeline- supply chain disruption??

2.4.2 “Competent Person” identify, review, act

2.5 Safety & Health Magazine (June 21)

2.5.1 NYC- “Zero tolerance” safety sweeps (fall fatalities 2 workers in 2 weeks)

2.5.2 Humor in safety- opens the door- (careful, blurred lines, know audience)

2.6 EHS Today (May 21)

2.6.1.1 Safety Report Cards; 3 F’s-focus, feedback, facilitation

2.6.1.2 Is Safety [Really](#) Your Top Priority??

3.0 Upcoming classes

3.1 ACM 1%< how to handle, class scheduled for 8/11 Newport Training Center

Next Meeting – September 22, 2021

Adjourned

September 22, 2021

Elias Campbell- GEW
Senior Safety Consultant



Joint Safety Committee
Oregon Pacific-Cascade Chapter, NECA
IBEW Local 932

Wednesday December 1, 2021

Meeting AGENDA

Roll call: meeting called to order (In-Person and Virtual) Approval of Meeting Minutes

1.0 Communications

- 1.1 Federal ETS COVID Vaccine <100 employees
- 1.2 NIOSH N95 new factsheet and fit

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

- 2.1 Safety Packet Review
- 2.2 EC Magazine- *November*
 - 2.2.1 NOPR- heat related illness
 - 2.2.2 Suicide rates- construction workers
 - 2.2.3 Safety Ropes- resources?
- 2.3 Safety & Health Magazine- *November*
 - 2.3.1 10 tips for returning to the workplace
 - 2.3.2 JSA/JHA/PTP-??
- 2.4 EHS Today- *November*
 - 2.4.1 Top 10 OSHA violations- surprises?
- 2.5 EC Magazine- *October*
 - 2.5.1 Utility damage prevention tips
 - 2.5.2 Training tomorrows Workforce
- 2.6 Safety & Health Magazine- *October*
 - 2.6.1 Safety at every rung- last ladder training?
 - 2.6.2 Human and Organizational Performance-
 - 2.6.3 Safety Manager or Leader?
 - 2.6.4 Proposed hike in OSHA Fines to \$50k minimum
- 2.7 EHS Today- *October*
 - 2.7.1 OSHA Onsite visit- What do you do?
 - 2.7.2 Employees with Chronic Conditions

3.0 OSHA Injury/Incidents

- 3.1 280
 - 3.1.1 08.31.21-Pushing a wire cart, bodily reaction, back strain, Modified Duty
 - 3.1.2 10.27.21- wire make-up, cut hand, stitches, recordable
659
 - 3.1.3 01.20.21- stripping wire, laceration, stitches-recordable
 - 3.1.4 07.16.21- glove caught-in cordless drill, struck-by, recordable
 - 3.1.5 07.20.21- falling cables, bundle cut loose, NEAR MISS
 - 3.1.6 10.15.21- opening boxes, cut hand, stitches, recordable

4.0 Class Schedule

4.1 Posted online

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

Work related accidents and incidents should be reported via the Accident/ Incident report to the NECA office for consideration by the committee.

Next Meeting: January 26, 2022



Safety Meeting Packet

December 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	1,113,995	10	111,400	82,595	93,391	100,648	113,117	116,512	109,213	125,311	124,186	109,618	139,404	
280	Inside Appr.	363,392	10	36,339	27,402	29,644	32,778	36,549	37,192	36,618	42,200	41,436	36,026	43,547	
280	MAI	0	10	0	0	0	0	0	0	0	0	0	0	0	
280	Material	111,134	10	11,113	10,283	9,566	9,875	9,398	10,971	9,784	12,787	14,234	10,430	13,806	
280	Residential	66,411	10	6,641	4,681	5,546	6,563	7,284	6,259	6,573	7,492	6,954	7,485	7,574	
280	Resi. Appr.	48,295	10	4,830	2,774	3,627	4,182	4,892	4,735	5,198	5,560	5,287	5,546	6,494	
280	S & C	174,194	10	17,419	14,409	16,486	17,317	18,920	16,101	16,976	20,013	17,973	17,829	18,170	
280	S & C Appr.	82,872	10	8,287	5,989	6,463	7,770	8,991	7,882	8,284	9,487	8,826	9,520	9,660	
280	Support Tech/MOU	99,588	10	9,959	7,374	9,693	9,520	11,167	9,824	9,854	12,073	9,321	8,975	11,787	
TOTAL 280		2,059,881	90	205,988	155,507	174,416	188,653	210,318	209,476	202,500	234,923	228,217	205,429	250,442	0
Total NECA					129,255	148,536	156,181	178,222	170,755	164,485	188,927	183,809	173,624	215,507	0
% NECA					83.12%	85.16%	82.79%	84.74%	81.52%	81.23%	80.42%	80.54%	84.52%	86.05%	#DIV/0!

Local#	Contract Type	Annual Total	Average Hrs/Mo	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
659	Inside	216,386	10	21,639	14,402	17,416	19,899	25,953	24,333	22,532	25,452	21,409	20,536	24,454	
659	Inside Appr.	102,570	10	10,257	6,631	7,413	8,788	10,921	10,322	10,122	12,403	11,810	11,237	12,923	
659	Material	4,194	10	419	326	315	506	286	339	402	594	327	342	757	
659	Residential	6,858	10	686	529	604	571	662	480	534	896	870	717	995	
659	Resi. Appr.	3,408	10	341	192	292	388	404	255	305	369	292	344	567	
659	S & C	5,817	10	582	377	388	574	547	548	454	665	563	763	938	
659	S & C Appr.	409	10	41	31	141	4	6	3	0	7	12	205		
Total 659		339,642	70	33,964	22,488	26,569	30,730	38,779	36,280	34,349	40,379	35,278	33,951	40,839	0
Total NECA					16,260	18,904	21,099	29,410	26,543	23,292	30,519	25,376	24,065	30,546	0
% NECA					72%	71%	69%	76%	73%	68%	76%	72%	71%	75%	#DIV/0!

Local#	Contract Type	Annual Total	Average Hrs/Mo	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
932	Inside	86,618	10	8,662	7,377	8,779	10,566	10,940	8,774	9,169	6,793	8,041	7,561	8,618	
932	Inside Appr.	38,972	10	3,897	3,196	4,050	4,393	4,592	4,322	4,559	3,408	3,605	3,259	3,588	
932	Residential	3,685	10	369	204	321	457	595	467	265	402	301	425	248	
932	Resi. Appr.	900	10	90	123	145	0	0	143	173	140	0	176		
932	S & C	4,251	10	425	248	276	556	406	433	587	402	548	331	464	
932	S & C Appr.	208	10	21	49	37	50	19	0	11	0	0	42		
Total 932		134,634	60	13,463	11,197	13,608	16,022	16,552	13,996	14,723	11,189	12,635	11,576	13,136	0
Total NECA					10,106	12,371	14,448	14,911	12,511	13,148	11,051	11,099	9,928	11,187	0
% NECA					90%	91%	90%	90%	89%	89%	99%	88%	86%	85%	#DIV/0!

Grand Total	2,534,157	253,416	189,192	214,593	235,405	265,649	259,752	251,572	286,491	276,130	250,956	304,417	0	0
--------------------	------------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------	----------

Total NECA	2,076,075	10	207,608	155,621	179,811	191,728	222,543	209,809	200,925	230,497	220,284	207,617	257,240	0	0
-------------------	------------------	-----------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------	----------

**2021 LABOR HOURS RECAP
ALL SIGNATORY CONTRACTORS**

% NECA	82%	82%	82%	84%	81%	84%	81%	80%	80%	80%	83%	85%	#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	915,760	10	91,576	68,719	79,269	83,261	95,582	94,542	87,129	97,212	98,280	91,949	119,817		
280	Inside Appr.	274,442	10	27,444	19,971	22,732	24,344	28,177	26,492	26,926	32,339	30,660	28,434	34,367		
280	MAI	0	10	0	0	0	0	0	0	0	0	0	0	0		
280	Material	97,380	10	9,738	9,029	8,340	8,326	8,475	9,736	8,582	10,254	12,257	9,630	12,751		
280	Residential	41,374	10	4,137	2,769	3,611	3,792	4,443	3,811	4,157	4,870	4,275	4,647	4,999		
280	Resi. Appr.	36,648	10	3,665	2,079	2,906	3,110	3,854	3,678	4,014	4,209	3,802	4,067	4,929		
280	S & C	163,127	10	16,313	13,492	15,682	16,253	17,730	14,956	15,710	18,691	16,573	16,688	17,352		
280	S & C Appr.	81,014	10	8,101	5,822	6,303	7,575	8,794	7,716	8,113	9,311	8,641	9,234	9,505		
280	Support Tech/MOU	99,556	10	9,956	7,374	9,693	9,520	11,167	9,824	9,854	12,041	9,321	8,975	11,787		
Total 280		1,709,301	90	170,930	129,255	148,536	156,181	178,222	170,755	164,485	188,927	183,809	173,624	215,507	0	0

Local#	Contract Type	Annual Total		Average Hrs/Mo	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
659	Inside	162,083	10	16,208	10,690	12,739	14,033	20,482	18,441	15,971	19,974	15,868	15,033	18,852		
659	Inside Appr.	73,132	10	7,313	4,847	5,320	6,095	8,181	7,293	6,505	9,185	8,474	7,814	9,418		
659	Material	1,899	10	190	75	10	122	0	117	219	431	149	173	603		
659	Residential	2,353	10	235	284	226	191	174	141	143	264	315	270	345		
659	Resi. Appr.	384	10	38	0	80	80	20	0	0	0	0	0	204		
659	S & C	5,754	10	575	333	388	574	547	548	454	665	563	763	919		
659	S & C Appr.	409	10	41	31	141	4	6	3	0	0	7	12	205		
Total 659		246,014	70	24,601	16,260	18,904	21,099	29,410	26,543	23,292	30,519	25,376	24,065	30,546	0	0

Local#	Contract Type	Annual Total		Average Hrs/Mo	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
932	Inside	80,989	10	8,099	6,812	8,226	9,873	10,116	8,086	8,495	7,810	7,309	6,752	7,510		
932	Inside Appr.	35,517	10	3,552	2,997	3,832	4,134	4,373	3,992	4,086	2,834	3,253	2,845	3,171		
932	MAI	0	10	0	0	0	0	0	0	0	0	0	0	0		
932	Residential	0	10	0	0	0	0	0	0	0	0	0	0	0		
932	Resi. Appr.	0	10	0	0	0	0	0	0	0	0	0	0	0		
932	S & C	4,046	10	405	248	276	391	403	433	567	396	537	331	464		
932	S & C Appr.	208	10	21	49	37	50	19	0	0	11	0	0	42		
Total 932		120,760	70	12,076	10,106	12,371	14,448	14,911	12,511	13,148	11,051	11,099	9,928	11,187	0	0

Grand Total		2,076,075		207,608	155,621	179,811	191,728	222,543	209,809	200,925	230,497	220,284	207,617	257,240	0	0
--------------------	--	------------------	--	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------	----------

**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	286,491	276,130	250,956	304,417	0	0	2,534,157
Grand Total	947,640	1,091,096	1,201,120	1,062,292	1,115,282	1,107,981	1,105,266	1,272,179	1,148,432	1,293,729	986,274	980,085	13,311,375

**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	230,497	220,284	207,617	257,240	0	0	2,076,075
Grand Total	780,885	913,614	989,836	882,828	910,797	900,361	898,797	1,039,489	929,977	1,066,208	769,117	801,504	10,261,105



Safety Training Topics

January 2022

Slipping Hazards

Ladder Safety

Distractions on the Job

Fall Protection

SAFETY TRAINING TOPIC

Slipping Hazards

OIL, WATER, AND OTHER LIQUIDS

Don't ignore floor puddles in the belief they will evaporate. If you came across a puddle before it evaporated, so can someone else. That person might not be as lucky as you.

Don't ignore spills. If you see a spill, clean it up. If it is too large to clean up, call for help or report it to the person in charge of the area.

If you clean up oil, surfactant, soap, or some other substance that tends to stick to surfaces, don't just wipe up what's visible and walk off. Make sure the floor is no longer slippery. A technique that often works is to grind oil absorbent or cat litter into the place where the substance was. Dispose of oil into approved containers only.

When cleaning up a spill, avoid stepping in it. That way, you don't track the mess to other areas or slip while attempting to clean up.

After a wire pull, ensure you have wiped up the lubricant.

GRIME, DUST, GRAVEL, OIL-DRY AND OTHER SOLIDS

General housekeeping will remove these hazards from floors. For example, lean up wire scraps after wire pulls and terminations.

Outdoors, loosely-packed gravel is always a hazard-be extra cautious.

MUD, GRASS, ICE, AND OTHER SLIPPERY SURFACES

If you work outside, you may work on mud, grass, or ice. Each of these surfaces is slippery enough for you to fall and suffer serious injury. Take extra precautions such as carrying smaller loads, taking smaller and more deliberate steps, and being especially aware of your center of gravity.

A big danger from mud is mud caked on your shoes after you leave the muddy area. It can act like grease under your shoes as soon as you step from rough outdoor terrain onto a cement or tile floor. Clean your shoe bottoms before going inside.

CARRYING THINGS

Nobody will give you a medal for playing Superman. How much you can carry is not as important as how much you can carry safely. If you are working around slippery surfaces, reduce how much you carry. Using a cart or other such device will help.

Don't carry loads that force you to lean back and thereby raise your center of gravity.

The amount of time on a slippery surface is less of a slipping issue than the degree to which you are off balance. You are better off crossing the surface many times while balanced than just once while unbalanced.

YOUR SHOES

If the bottoms are worn smooth or cracked, or if the heels show excessive wear on one side, replace your shoes.

Your feet should not move inside your shoes. If they do, you will be more prone to falling.

HOW YOU WALK

Most people do not really walk. They fall forward onto the foot that is out in front. This is why people fall when walking on ice. If you pay close attention to how you walk, you can overcome this type of walking and make yourself more slip-proof. The idea is to get your center of gravity in a neutral position, rather than out in front of you.

Walking with your head up, chest out, back straight-think military posture- greatly reduces your odds of falling if your feet slip. This posture moves your center of gravity to the center, rather than the front.

Walk across a dusty floor or in snow, and then look at your footprints. Which way do your feet point? If they point any direction other than dead ahead, you have a foot alignment problem. Work on correcting your foot position so your heel and toe are in alignment with the direction you are walking.

If your head bounces up and down when you walk, that means you are moving your center of gravity up and down. Put a book on your head and practice walking with it. This will correct most walking deficiencies.

If you smoke, allow for extra caution. Smokers have a compromised sense of equilibrium because of blockages in the various passageways that form part of the body's system for sensing position.

You can reduce slipping hazards on especially treacherous turf by walking with your knees bent as though you are riding a horse. Martial artists call this the horse stance. It is nearly impossible for one person to knock down another person who is in this stance, and for that reason it is a good way to stand if you must traverse a slippery surface. You may look funny doing it, but you won't fall. It worked for Bruce Lee.

REVIEW AND DISCUSSION

- Should you just let a water puddle on the floor evaporate?
- What should you do if a spill is too large to clean up?
- How should you dispose of oil?
- Where does housekeeping fit into the idea of slipping hazards?
- If you are going to cross a slippery surface, should you carry one big load or two smaller ones across it?
- Do your shoes matter? In what ways?
- What should you try to keep from being out in front of you when you walk?
- How should your feet point when you walk?
- How can a book help you walk more safely?
- What is the horse stance, and how can it help you not fall?

SAFETY TRAINING TOPIC

Ladder Safety

GENERIC LADDER SAFETY

Never use aluminum ladders for electrical work or in the vicinity of power sources. Use a wood or fiberglass ladder, instead.

Never use a painted wooden ladder. Among the dangers: the paint may be electrically conductive, and it reduces the friction needed for your hands and feet to stay in place on the ladder.

Do not put your arms between the side rails when carrying a ladder. Doing so makes you vulnerable in injuries such as a torn rotator cuff.

Carry a ladder with its feet pointed forward. When you set the ladder down from this position, its feet are already in place. If you carry the ladder with the feet pointed behind you, you'll be tempted to swing the ladder in a dangerous manner or you'll need to set it down and pick it up again.

Use a ladder tall enough for the job. It takes less time to get the right ladder than it does to recover from a typical fall off a ladder.

On smooth, hard surfaces, use a ladder with rubber feet. On uneven or icy surfaces, use a ladder with spurs.

Visually inspect the ladder before each use. Remove grease, mud, oil, or other slip hazards. Look for protruding rivets, loose steps or rungs, cracks in the side rails, or other mechanical damage-if these are present, take the ladder out of service.

Note the weight limit, and allow for the weight of equipment and supplies in addition to your own body weight.

If you must place the ladder on an unstable surface, make it as stable as possible. If, for example, the surface is gravel, dig the feet into the gravel. Then, secure the ladder by some additional means.

Except for emergencies, observe the "one person on a ladder" rule. Even if the weight limit would allow two people, there is too much risk of stepping on heads and fingers-and both people can fall in such an instance.

Use the three-point contact method when climbing. This requires two hands and a foot, or two feet and a hand, to be in place on the ladder at all times.

Use the steps, not the cross braces, for supporting your weight. The cross braces are not designed for this purpose, do not provide sufficient traction, and may give way.

Do not sit or stand on the top step or next-to-the-top step of any ladder. One reason: the top step doesn't have a "stop" built into it. If you stand on the second rung down, the top step stops your shins from moving forward-and off the ladder.

Do not over-reach while using a ladder. This is the number one cause of ladder injuries. Instead, climb down and move the ladder. If you are leaning your body away from the center of the ladder, you are over-reaching.

Never move a ladder without first checking to ensure nothing on top of it will fall off. Also, check to ensure the top won't snag on something-this could force you to suddenly support the weight of the ladder.

Do not carry materials up a ladder. Have someone hand you materials, or use tag line to raise them to you once you are up the ladder.

Do not hang things on the rungs-doing so creates a fall hazard.

Position a straight or extension ladder so it is one foot out at the base for every four feet of vertical distance. This provides a good balance of forces and uses the weight of the ladder to help stabilize it.

STEP LADDERS

Before climbing a stepladder, ensure the hinges are locked. Check the cross bracing for any mechanical damage.

Check the feet to ensure they are in place, attached properly, and undamaged.

Do not stand on the second step from the top of any stepladder that is more than four feet tall.

EXTENSION LADDERS

Inspect the rope for rotting or fraying.

If the ladder has spurs, ensure they are in place before climbing.

Keep hands away from moving parts when operating an extension ladder. Extend the ladder three feet above the top of a structure or excavation, and secure by tying off at the top.

Secure the ladder at the bottom. To do so, tie or wedge it into place.

REVIEW AND DISCUSSION

- What are three safety rules that apply to the use of any ladder?
- What are some reasons not to use a painted wooden ladder?
- When should you not use an aluminum ladder?
- What should you look for when inspecting the ladder before use?
- What do you need to account for when considering the weight limit of a ladder?
- What is the three-point contact method?
- What is over-reaching, and why is it dangerous?
- Should you carry materials up a ladder? Why not? What could you do instead?
- Why would sitting or standing on the top rung of a ladder be dangerous?
- How far from the top is too high to stand on a stepladder?

SAFETY TRAINING TOPIC

Distractions on the Job

Introduction: Many accidents and injuries occur when a worker is distracted while working. Following are safety guidelines to ensure that all workers are aware of the distractions that may occur while on the job, and how these distractions can be eliminated:

Mental distractions: Having a bad day at home and worrying about it at work is a hazardous combination. Dropping your ‘mental’ guard can pull your focus away from safe work procedures. You can be distracted when you are busy working and a friend comes by to talk while you are trying to work. Do not become a statistic because you took your eyes off the machine or the work “just for a minute.”



Inattention: Inattention may be the result from workplace arguments, confusing instructions, concern about working hours, wages, bills, etc. Inattention worsens with fatigue and boredom. Keep your mind on your work. The prime interest in solving hazards created by inattention lies in methods of deference; warnings, alarms, fail-safe switch circuits, guards, etc. For example, hazardous steps and overhangs can be brightly painted, horns and back-up alarms must be on heavy equipment, and warning signs are required to be posted.

Machinery: Set up your work station in a clear unobstructed location with good lighting, proper electrical circuits, and away from busy foot traffic that would cause distractions. Make sure that everyone is at a safe distance away from a machine before starting. Assure that your work station is stable and clear of trip hazards. Hands can be protected by using machinery that only turns when both hands are on the operator switches. Never by-pass the start up switch on the equipment you are using. When a machine does not start the way it was designed, inform your boss.

Hearing: Do not play loud music. Headphones can be a hazardous distraction. Ask your supervisor if wearing headphones is acceptable. Ear muffs are for loud noise levels to safeguard your hearing. Workers need to hear when important instructions or warnings are told. A co-worker may save your life.

Long hair: When your hair is loose and flowing, it can blow around and get in your face or eyes and obstruct your view. Avoid fixing your hair while working with machinery or operating a vehicle. Tie your hair back and keep it under a hat.



Driving: Avoid distractions such as:

- | | | |
|-------------------------------|---------------------------------------|----------------------------|
| ■ Tools and items not secure | ■ Using a portable phone | ■ Looking at a map |
| ■ Doing paperwork | ■ Eating a meal | ■ Reading |
| ■ Fastening a safety belt | ■ Adjusting the radio | ■ Reaching for a cup |
| ■ Trying to get out of a coat | ■ Reaching into the glove compartment | ■ Unsafe lane change |
| ■ Bad windshield wipers | ■ Searching for dropped items | ■ Staring at other drivers |



Consider this: 4 out of every 5 accidents are the fault of the person involved in the incident. Unsafe acts cause four times as many accidents and injuries as unsafe conditions. Workers tend to look for “things” to blame when an accident happens, because it is easier than looking for “root causes”.

Shortcuts: Every day we make decisions we hope will make the job faster and more efficient. Do time savers ever risk their own safety, or that of other crewmembers? Short cuts that reduce your safety on the job are not shortcuts, but an increased chance for injury.

Overconfidence: Confidence is a good thing. Overconfidence can be too much of a good thing. “It will never happen to me” is an attitude that can lead to improper procedures, mishandling of tools, or unsafe methods on the job. Any of these can lead to injury.

- **Do not** start a task with incomplete instructions. To do the job safely and right the first time you need complete information. Have you ever been sent to do a job, having been given only a part of the job’s instructions? Ask for explanations about work procedures and safety precautions.

Poor housekeeping: When clients, managers, or safety professionals walk through your work site, housekeeping is an accurate indicator of everyone's attitude about quality, production, and safety. Poor housekeeping creates hazards of all types. A well-maintained area sets a standard for others to follow. Good housekeeping involves both pride and safety.



Ignoring safety procedures: Purposely failing to observe safety procedures can endanger you and your co-workers. You are being paid to follow the company safety policies; not to make your own rules. Remember, being "casual" about safety can lead to a casualty.

- **Being hasty** in starting a task or not thinking through the process can put you in harms way. Plan your work and then work your plan.

Problem solving: Once you have realized a distraction problem, meet with the worker to discuss what you have seen. Meet at a time and place when you think you will be relaxed and able to discuss the problem. When distraction problems occur, it is especially important to speak with respect. Address the distraction problem and encourage improvement. Do not judge the worker. Be relaxed and maintain a nonjudgmental attitude; this will help keep the lines of communication open, solve the problem, and maintain good relations. Starting the conversation is often the most difficult step. You may feel unsure about what to say or how to say it, or you may find yourself wanting to avoid the discussion altogether. Be straightforward and honest.

Remember: Concentrate on the work at hand, and keep your mind on your work. Utilize these safety guidelines to help eliminate distractions on the job.

Work Site Review

Work-Site Hazards and Safety Suggestions: _____

Personnel Safety Violations: _____

Employee Signatures:

(My signature attests and verifies my understanding of and agreement to comply with, all company safety policies and regulations, and that I have not suffered, experienced, or sustained any recent job-related injury or illness.)

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Foreman/Supervisor's Signature: _____

These guidelines do not supercede local, state, or federal regulations and must not be construed as a substitute for, or legal interpretation of, any OSHA regulations.

SAFETY TRAINING TOPIC

Fall Protection

SOME FACTS

Fall-related accidents account for about 10% of all workplace fatalities. Nearly all of the fall accidents on record were preventable.

Ways of protecting yourself include hazard elimination, fall protection, and work procedures.

HAZARD ELIMINATION

The most effective way to deal with fall hazards is to eliminate them. For example, if you can lower a light to replace its lamp and then raise the light back up, you have eliminated the hazard.

Partial elimination is the second most effective way. For example, if you can pre-assemble items before going up in a lift or up on a ladder, you will spend less time being vulnerable to a fall.

FALL PROTECTION

You can't always eliminate a fall hazard, and partial elimination still leaves you with a hazard. Fall protection, as defined by the fall protection industry, is a passive way of preventing you from falling.

Fall protection examples are all around you. These include ladder cages, platform railings, and secured hole covers.

FALL RESTRAINT

This is what most people think of, when they think of fall protection.

It involves the use of a secure anchorage and a lanyard connected to your full body harness. The lanyard allows you to reach the work area, but prevents you from falling too far.

Fall restraints require you to have training in the proper use and inspection of your equipment.

WORK PROCEDURES

Some situations make fall protection and fall restraint measures impractical or impossible.

The idea of changing the work procedure is not to find a cheaper way of protecting against the fall. The idea is to rethink the work process so fall protection measures become practical, possible, or unnecessary.

You may need to help change the procedure or find a way to eliminate the task completely. Your input is valuable, as you are the one doing the work.

SAFETY HARNESS INSPECTION

When using fall restraint devices, you must inspect them. Look for fiber damage, pulled stitches, or frayed edges. Examine D-rings, grommets, rivets, buckles, tongues, and straps.

LANYARD INSPECTION

Look for fiber damage, pulled stitches, or frayed edges. Inspect the snaphooks, carabineer, and any other mechanisms.

If it is a retractable lanyard, ensure the back nuts and rivets are tight.

If it is a retractable lanyard, test for smooth operation and proper locking.

ANCHORAGE POINTS

Before attaching to an anchorage point, look for cracks, sharp edges, or evidence of abuse.

In a particularly dangerous area, you will need to attach to a new anchorage point before un-attaching from the one you are attached to.

Do not attach to guardrails, C-clamps, ladders, conduit, light fixtures, rebar, plumbing, roof stack, or any object that you aren't sure can support your weight plus the force of your fall. Anchorage points must be capable of supporting 5,000 pounds per person because of the forces generated from the impact of a fall.

REVIEW AND DISCUSSION

- If there are ten people in your crew, how many are statistically likely to die from a preventable fall accident?
- What are three ways of protecting yourself from falls?
- What are some examples of how might you eliminate or partially eliminate a fall hazard?
- What is fall protection, as defined by the fall protection industry, and what are some examples?
- What is fall restraint, and what are some examples?
- What kind of training do you need if you are going to use fall restraint equipment?
- What is the purpose of changing work procedures?
- How do you inspect a harness?
- How do you inspect a lanyard?
- What do you need to know about attachment points?

Safety

COMPLIANCE ALERT™

Get more online:

- Training Shops
- Safety Checklists
- Scenario Responses



www.SafetyComplianceAlert.com

November 1, 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

Ladder safety



Checklist

Confined spaces in storms



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.

WHAT'S INSIDE

2 Sharpen Your Judgment

Company knew worker would be in danger?

3 What's Coming

Report: Silica enforcement falling short

4 Who Got Fined – And Why

Double fatal fire results in almost \$118K in fines

5 What's Worked for Other Companies

When Notice of Violations isn't received

6 Safety Regs Update

Cal/OSHA introduces two new violation categories

8 What Would You Do?

Behind on big order: Is OT the answer or a safety nightmare?

Massive, fatal explosion caused by policy/practice deficiencies

■ Report points to operational issues as root cause

While mixing chemicals led to an explosion that killed four workers, a federal investigation says deeper operational problems were the real cause.

Recommendations in the report amount to more than just figuring out how not to mix the wrong chemicals again.

A U.S. Chemical Safety and Hazard Investigation Board (CSB) final report says the cause of the massive explosion and fire at the AB Specialty Silicones LLC manufacturing facility in Waukegan, IL, on May 2, 2019, was “deficiencies in ... operations,

policies, and practices ... and the lack of a safety management system addressing process safety.”

Same drum, different chemical

Here are the specifics of what happened on the day of the explosion, according to the CSB:

- Employees were performing a batch operation that involved manually mixing chemicals in a tank
- An employee pumped an incorrect chemical into the tank
- The incorrect, incompatible chemical was stored in a drum almost identical to one with

(Please see Policy deficiencies ... on Page 2)

PPE

Half of exposed workers don't use hearing protection

A new NIOSH study says many workers still don't use hearing protection devices (HPD) when exposed to noise on the job, including in some unexpected industries.

Among all noise-exposed workers, 53% said they didn't use HPD “always” or “usually.”

NIOSH researchers found some of the highest rates of HPD non-use among exposed workers were in industries where fewer workers overall are exposed to loud noise, such as finance and insurance.

The study recommends:

- targeted attention to workers exposed to loud noise in these industries, and
- employers provide an assortment of HPDs tailored to noise level and type, workplace environment, communication and audibility

needs, and individual comfort and convenience.

Gender and age are factors

Researchers also found women, workers ages 18-25 and current smokers had a significantly higher rate of HPD non-use. These results are consistent with results in previous studies.

Dr. Elizabeth Masterson, research epidemiologist and study co-author, recommends:

- increasing worker awareness about proper, consistent HPD use
- increasing worker training about HPD use, and
- removing barriers to HPD use by ensuring workers have HPD that's comfortable and doesn't overprotect from noise so they can hear speech and other important workplace signals.

Policy deficiencies ...

(continued from Page 1)

- the correct chemicals – the only difference between the two drums were small labels that listed their contents
- A chemical reaction occurred inside the tank, causing the contents to foam and overflow
 - Hydrogen gas was produced, which released inside the facility's production building
 - Soon after the hydrogen gas release, it ignited, causing a massive explosion and fire, and
 - The explosion fatally injured four employees, destroyed the production building, and forced the

company to cease some operations and relocate others until rebuilding occurred.

More than a mix-up

But the CSB says there was more to what led to the explosion than just a mix-up in chemicals.

Beyond mixing incompatible materials, the CSB investigation noted problems in these safety areas:

- **Hazard analysis:** AB Specialty's "technical service request" process didn't assess the hazards of performing a process operation or establish safeguards to reduce risk. On top of that, the CSB found the company didn't take sufficient action to improve its hazard analysis program after a drum explosion in 2014.
- **Emergency preparedness:** Workers didn't recognize the immediate hydrogen hazard created by the chemical mix-up. Without gas detectors and alarms, or effective training, the workers didn't realize they needed to evacuate.
- **Process safety culture:** "In the years leading up to the incident, AB Specialty exhibited characteristics of a weak process safety culture," according to the CSB. This included lack of engineering controls, heavy reliance on procedural controls as primary safeguards, allowing incompatible chemicals to be visibly undifferentiated and not performing a thorough hazard analysis. The lack of hazard analysis also led to storing reactive chemicals in similar containers.
- **Safety management system:** AB Specialty didn't have a safety management system that addressed process safety at the time of the incident.
Key: Correcting just the chemical mix-up could leave the company open to other process safety mistakes down the road.
 More comprehensive corrections, including establishment of a safety management system that addresses process safety at the facility, will have a much broader positive effect on safety.

Info: csb.gov/lab-specialty-silicones-llc/

Safety COMPLIANCE ALERT

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

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

Safety Compliance Alert (ISSN 1077-9787), November 1, 2021, Vol. 28 No. 629, is published semi-monthly except once in December (23 times a year) by Progressive Business Publications, 384 Technology Drive, Malvern, PA 19355; PHONE: 800-220-5000. FAX: 610-647-8089. Periodicals postage paid at West Chester, PA 19380. Postmaster: Send address changes to *Safety Compliance Alert*, 384 Technology Drive, Malvern, PA 19355.

Subscriptions: 800-220-5000

This publication is designed to provide accurate and authoritative information in regard to the subject matter covered. It is sold with the understanding that the publisher is not engaged in rendering legal, accounting, or other professional services. If legal or other expert assistance is required, the services of a competent professional should be sought. — From a declaration of principles jointly adopted by a committee of the American Bar Association and a committee of publishers.

Statement of Ownership, Management and Circulation of *Safety Compliance Alert*. Published semi-monthly – except once in December – by Progressive Business Publications, 384 Technology Drive, Malvern, PA 19355. Publisher is Progressive Business Publications; editor is Merriell Moyer; owner of 1% or more of the stock of Progressive Business Publications is American Future Systems, all of Malvern, PA. The average number of copies of each issue sold and distributed to paid subscribers during the 12 months preceding October 2021 was 2,557. There was no distribution through dealers or news agents. Actual number of copies of a single issue published nearest to filing date 1,975. Complimentary copies issued: 0. Office use, left over and spoiled: 28. Statement signed and certified to be true by Kamil Yakubov, Chief Financial Officer.

♻️ Printed on recycled paper.

Copyright © 2021 Progressive Business Publications. Please respect our copyright: Reproduction of this material is prohibited without prior permission. All rights reserved in all countries.

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.

■ COMPANY KNEW WORKER WOULD BE IN DANGER?

"Let's take it from the top again, OK?" company attorney John Jenkins said. "OSHA's citing us."

"I'm sorry," Safety Manager Pete Travers said. "I just can't believe an experienced, safety-conscious lineman like Eddie got hurt."

"Don't you always say, 'Even experienced workers can have lapses in judgment?'" John asked.

"Yes, but Eddie is the last person I'd expect to get hurt," Pete said.

Good crew, analysis, reminders

"Tell me what happened again," John said.

"We had a crew installing fiber-optic cable on utility poles that were already being used for power lines," Pete said.

"This was in an area of really rough terrain, with lots of brush and tree cover, so it wasn't easy to see what you were doing," Pete explained.

"With that in mind, the supervisor gave multiple reminders to be extra careful on top of having a toolbox talk and doing a hazard analysis before work began," Pete added.

"Between how experienced the crew was, the reminders and the analysis, the crew was well aware how far away they needed to be from the power lines," Pete said. "Somehow, Eddie still managed to contact a power line and get shocked."

"We can fight this," John said. "The company had no knowledge Eddie would ignore all of that."

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

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

WHAT'S COMING

INSPECTOR GENERAL

Report: Silica enforcement falling short

- OSHA FAILING MILLIONS OF WORKERS DUE TO LAPSE IN PROGRAMS

A recent investigation by the Department of Labor's Office of the Inspector General (OIG) into OSHA's respirable silica rule enforcement reveals the agency needs to do more, as its recent efforts are falling short, due in part to a lapse in silica national emphasis programs.

OIG's audit was conducted to see to what extent OSHA has gone to protect workers from exposure to respirable crystalline silica, which involved review of inspection and violation data, interviews with OSHA staff, and review of outreach and guidance efforts.

The findings

Inspection data for the two fiscal years after the silica rule became enforceable on March 25, 2016, shows OSHA performed an average of 440 inspections per year.

In the two years before the rule became enforceable, the agency performed an average of 1,054 silica inspections per year.

So after the final rule became enforceable, OSHA actually performed 600 fewer silica inspections on average, a decrease of more than 50%.

Further, the audit revealed that OSHA failed to set clear processes for evaluating the effectiveness of its outreach efforts for the 2.3 million workers at risk for silica exposure.

The OIG report primarily attributes this decline in inspections to a more than two-year lapse between silica national emphasis programs.

Recommendations

The report recommends OSHA:

- implement a policy for future emphasis programs that would minimize the lapse in enforcement between canceled, revised or new programs, and
- establish meaningful goals and processes to assess whether outreach events are achieving the desired results.

OSHA generally agreed with these findings, but said it felt it was appropriate to give employers time to adjust to new mandates, which can lead to a gap between enforcement efforts.

PANDEMIC

NSC: Employer requirements increase vaccination rates

When employers require employees to get COVID-19 vaccinations, what happens? A new National Safety Council (NSC) study has the answer, plus more information on the world of safety during the pandemic.

Employer vaccine requirements increased worker vaccination rates by 35%, according to the NSC's report, A Year in Review, and What's Next: COVID-19 Employer Approaches and Worker Experiences.

The NSC's statistic mirrors reports from employers that have initiated vaccination mandates. For example, United Airlines required all of its employees to be vaccinated. Only 593 employees out of 67,000 didn't

comply, which is less than 1%. (Less than 3% applied for exemptions.)

Only 4% of unvaccinated workers have an employer vaccination requirement, compared to 22% of vaccinated workers, the NSC says.

How are employers doing?

About two-thirds of workers were either extremely or somewhat satisfied with their employer's pandemic response and felt it adequately protected them and their co-workers.

However, employers are more confident about their control measures than employees are, with masks and distancing being rated by workers as more effective than ventilation changes and increasing time between shifts.

TRENDS TO WATCH

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

■ OWNERS CHARGED IN \$3.6M COMP FRAUD SCHEME

The owners of a California car wash were charged Sept. 29 in a \$3.6 million workers' compensation fraud scheme.

Behzad Bandari and Sam Siam, the owners of Waterdrops Express Car Wash, allegedly underreported more than \$3.6 million in employee payroll to fraudulently reduce their workers' compensation insurance premium by \$369,210.

Both men are scheduled to appear in court on Dec. 12, 2021, according to a California Department of Insurance news release.

Bandari was the chief financial officer of the business, and Siam was the company's chief executive officer.

They were identified as shareholders and managing partners in a chain of car wash locations that spanned across three counties and were organized under multiple corporate entities.

On March 25, 2020, the California Department of Insurance began an investigation into the car wash business after receiving a tip from an insurance company.

■ LAW PROVIDES PREFERENCE TO INJURED WORKERS

New Jersey Governor Phil Murphy signed a law Sept. 24 requiring employers to provide a hiring preference to employees who reached maximum medical improvement following a work-related injury.

This applies to employers with at least 50 employees and protects only employees who are injured at work, have reached maximum medical improvement and are unable to return to their previous position, but aren't completely unable to work due to their disability, according to law firm Morgan, Lewis & Bockius.

WHO GOT FINED – AND WHY

Roundup of most recent OSHA citations

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

Double fatal fire results in almost \$118K in fines

Two companies were cited for safety violations following a fire at a packaging plant that killed two workers.

An investigation found the incident occurred when a heat gun fell into a bucket of resin at the Evergreen Packaging Plant, resulting in a fire that killed two contractor employees.

Evergreen wasn't cited.

Fines: \$117,775 (Industrial Services Group \$112,000; Rimcor \$5,775)

Companies: Industrial Services Group and Rimcor Inc., both of Canton, NC

Businesses: Industrial coatings and linings (Industrial Services Group); general contractor (Rimcor)

Reasons for fines:

Industrial Services Group

One willful serious violation:

- flammable liquids with a flashpoint below 100 degrees-F were used where there were open flames

One serious violation:

- flammable liquids with a flashpoint below 100 degrees-F were dispensed into containers in which the nozzle and container weren't electrically interconnected

One non-serious violation:

- confined space entry protocol violations

Rimcor

One serious violation:

- failure to develop and implement procedures to coordinate entry operations when employees of more than one employer were working simultaneously as authorized space entrants in a confined space

One non-serious violation

- other violations of the confined space program requirements

Workers exposed to confined space hazards

An Ohio lighting fixture manufacturer was cited after inspectors found employees were

routinely entering powder-coating ovens without testing atmospheric conditions or locking out natural gas lines.

The company exposed workers to asphyxiation and energy hazards by failing to designate the ovens as permit-required confined spaces and by failing to use lockout/tagout procedures.

Fine: \$119,757

Company: Schneider Electric, Oxford, OH

Business: Lighting fixture manufacturing

Reasons for fine:

17 serious violations, including failure to:

- ensure reclassified confined space posed no actual or potential atmospheric hazards
- develop and implement means, procedures and practices for safe permit space entry operations
- test conditions in permit space to determine if acceptable entry conditions exist before entry
- ensure each entry supervisor knew hazards of permit required confined spaces

Contractors fined after gate crushes, kills worker

OSHA cited three contractors after a 3,000-pound metal gate fell on a construction worker, killing him.

An investigation found all three failed to conduct proper inspections, train employees to identify hazards and install signs warning workers about hazards.

Note: OSHA did not provide information on the breakdown of the fines or the severity of the violations.

Fine: a total of \$64,169

Companies: Penta Building Group, Las Vegas; No Limit Steel, Los Angeles; and The Raymond Group, Orange, CA

Businesses: Construction contractors

Reasons for fine:

Three violations for failure to:

- conduct hazard inspections
- instruct employees on how to recognize workplace dangers
- install caution signs to warn workers about potential hazards

WORKERS' COMP DECISIONS

PTD benefits after doctors cleared her for work?

A nursing assistant with a back injury says she can't do any other jobs and wants permanent total disability (PTD) benefits. Can she collect?

What happened: The nursing

assistant, who worked for the same nursing home for 40 years, hurt her back at work. She complained of severe pain in her back and legs, but her doctors eventually cleared her for sedentary work, which she claimed she couldn't do. She did not seek further medical help for her continuing pain.

Company's reaction: Work that suited your condition was offered, but you refused.

Decision: She couldn't collect. The court found she was cleared for work and there was no medical evidence to support her PTD claim.

Cite: *Robertson v. Montana State Fund*, MT Workers' Comp Court, No. 2020-4988, 3/16/21.

Injured on shuttle bus: Can she collect benefits?

A worker was injured while riding a shuttle bus. Can she collect?

What happened: The worker parked in a parking space, then rode her employer's shuttle bus the rest of the way to work. The bus struck a curb hard enough to injure her, but she didn't report the incident right away because the symptoms weren't immediate.

Company's reaction: Your injury didn't happen at work.

Decision: She could collect. Despite discrepancies in her story, the court found ample evidence of a work injury.

Cite: *W. Penn Allegheny Health System Inc. v. WCAB (Cochenour)*, Commonwealth Court of PA, No. 85 CD 2020, 4/16/21.

REAL PROBLEMS, REAL SOLUTIONS

When Notice of Violations isn't received

Federal OSHA gives employers 15 business days from receipt of its citations and penalties to abate the violations, request an informal conference or contest them. Some state-plan states give employers 20 days.

Here's an example of how important those 15 or 20 days can be.

OSHA visited an employer in Tennessee in December 2019.

The first attempt to deliver a Notice of Violations was on May 30, right at the six-month limit for OSHA to do so.

May 30, 2020, was a Saturday and the business was closed. The U.S. Postal Service didn't leave anything to say they tried to deliver the NOV.

The second delivery attempt was on June 22, which was a Monday, but it was after 5 p.m. and the business was closed.

The third attempt was on July 3. Since July 4 was a Saturday, the business was closed on July 3 for the Independence Day holiday.

The fourth delivery attempt on July 10 was successful.

However, by that time, it was already weeks beyond their original abatement date, June 22.

No wiggle room

By July 10, the company had already been assessed a late fee, and they were denied an informal conference with OSHA because they were outside of the 20 days from their abatement date.

We contacted Tennessee OSHA, and they said the employer was avoiding the mail so they wouldn't receive their citation. TN OSHA said there was nothing they could do.

Without the informal conference available, the company wasn't able to plead its case to OSHA.

If this had been a case with a high penalty – above \$100,000 – we'd probably advise the company to get a lawyer involved and take some action.

Fortunately for this employer, the penalty amount was very low, so it made sense to just pay the fine instead of paying for a lawyer.

Federal and state OSHAs take the 15- or 20-day period for responding to the NOV very seriously. They don't give you any wiggle room.

So, if you receive a visit from OSHA and are expecting fines, please alert your office staff to be on the lookout for the NOV in the mail. Responding to it promptly can make a big difference.

(Based on a presentation by Andrea Collins, Risk Management Consultant, KPA, Knoxville, TN, at VPPPA's Safety+ Symposium 2021)

Impact of personal stress on safety

If a safety manager doesn't understand what stress means to workplace safety, you're setting up your employees for failure.

Here's how we discovered how big a factor stress is to safety.

Check the data

We implemented a human factors program and did an analysis, looking at incidents and putting them into a human factors model.

First, when looking at an unsafe act, we decided if it was an error or a violation.

But it's critical not to stop at that point.

You need to look at preconditions that may have caused that employee to make that error.

What we found was, the No. 1 bucket we classified incidents by preconditions was adverse mental states.

Stress and its effects on safety aren't talked about enough.

We need to bring it to the forefront more often as safety professionals because it absolutely has an impact on our losses – sometimes our more serious losses.

(Based on a presentation by Jim Olson, VP Safety, Republic Services, Mesa, AZ, at the ASSP's Safety21 Conference)

TRAINING TIPS

Forklift loads: Be aware of these potential hazards

Forklifts are common pieces of equipment found in use across many industries, handling a variety of different loads of varying sizes and weights.

One thing all forklift operations have in common is that operators must be aware of:

- off-center loads that may cause tipover or falling loads
- overloading that may cause tipover or falling loads, and
- damaged or loose loads.

To prevent a forklift from becoming unstable, and potentially causing it to tip over, operators should:

- secure the load so it is safely arranged and stable
- center the load as nearly as possible
- distribute the heaviest part of the load nearest the front wheels of the forklift
- not overload the stated capacity of the forklift, and
- use the load extension backrest.

Unapproved equipment modifications can kill

Equipment should never be modified without prior approval from the manufacturer to ensure modifications won't interfere with safe operation.

OSHA recently fined an Ohio paint manufacturer after an improperly altered kettle reactor vessel caused an explosion that killed one worker and injured eight more.

The vessel released a flammable vapor cloud when its manway cover and gasket failed, causing the cloud to flow throughout the plant.

Modifications to any kind of equipment have the potential to lead to disaster, so consulting with the manufacturer first is a must.

CALIFORNIA

Cal/OSHA introduces 2 new violation categories

California is cracking down on safety and health violations with two new violation categories, bringing it in line with federal standards and expanding upon them.

Governor Gavin Newsom signed a bill into law Sept. 28, creating two new categories of Cal/OSHA violation: “egregious” and “enterprise-wide.”

Both categories carry big fines for employers. How big? Up to \$134,334 per violation.

However, egregious violations can lead to even bigger fines “because each exposed employee will be considered a separate violation,” according to law firm Greenberg Traurig.

The law and its new violation categories take effect Jan. 1, 2022.

Egregious violations

California’s egregious violations are similar to federal OSHA’s in that these citations are typically reserved for employers who consciously do nothing to eliminate known violations or if the violation leads to fatalities, a large number of injuries or a worksite catastrophe.

Enterprise-wide violations

The other new violation category, enterprise-wide violations, does not

have a federal OSHA counterpart. Federal OSHA can only get corporate-wide abatement through negotiated settlements.

California’s new law creates a rebuttable presumption that an employer with multiple worksites has committed an enterprise-wide violation if:

- the employer’s written procedures on certain topics or issues aren’t in compliance, or
- there’s evidence of a pattern or practice of the same violation committed by the employer at more than one of its worksites.

Citation stands: General contractor controlled site

A general contractor has to pay a \$145,858 fine for fall safety violations after a judge with the Occupational Safety and Health Review Commission found it exercised control over a multi-employer worksite.

Premier Roofing was working at a residential construction site when an OSHA inspector arrived to investigate a complaint regarding fall protection.

The inspector observed and

photographed multiple employees who either weren’t wearing any fall PPE or were wearing it without being tied off to an anchor point.

In court, the company insisted the employees in question were “interlopers” hired by a subcontractor and that it was unable to control their actions.

The judge disagreed, finding that Premier was in control of all the work so was responsible for site safety.

CSB: ‘Hot work’ doesn’t just mean ignition sources

A Sept. 21, 2020, double fatal fire at the Evergreen Packaging plant was caused in part by a contractor’s lack of understanding of the term “hot work,” according to the Chemical Safety and Hazard Investigation Board.

The contractor, Blastco, used heat guns to help dry a flammable resin used in repairs, but failed to indicate it was engaging in hot work on site. One of the guns fell into the resin, causing it to ignite.

Blastco’s hot work rules only recognized ignition sources that caused sparks, the CSB report states.

SHARPEN YOUR JUDGMENT – THE DECISION

(see case on Page 2)

Yes, Pete’s company won when the Occupational Safety and Health Review Commission vacated the citation.

OSHA cited the company, claiming it should have known the employee would breach the minimum approach distance (MAD) to the power line.

The company argued that it took every measure to ensure its experienced crew, who had worked in similar terrain many times before, knew to be extra careful since the MAD could be hard to detect due to the trees and brush.

The commission found the company had no knowledge the worker would end up breaching the MAD, citing all the reminders given while work was being done along with the toolbox talk and the analysis conducted

before work began.

Further, the commission found it was far easier for the employee to see he had breached the MAD from his higher vantage point that it was for the supervisor, who had been on the ground.

ANALYSIS: THE VALUE OF REMINDERS

The supervisor in this case gave multiple reminders to his employees about the hazards of the job throughout the course of the work.

Giving reminders is never a bad idea. Will workers think you’re nagging? Maybe, but they’ll still be less likely to forget.

Cite: *Secretary of Labor v. Armstrong Utilities Inc. doing business as Armstrong Cable Services*, Occupational Safety and Health Review Commission, No. 19-0034, 9/24/21. Dramatized for effect.

FEDERAL ACTIVITIES

Government notices on workplace safety

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

MINING

The Mine Safety and Health Administration has found that none of America's mining operations have met its criteria for pattern of violation (POV) notices, one of the agency's toughest enforcement screenings.

Out of the 12,000 U.S. mining operations, none of them met the criteria showing a pattern of violations.

MSHA's annual screening of operations was conducted from Aug. 1, 2020, to July 31, 2021, and no POV – which would indicate a mine operation posing the greatest risk to miner health and safety – was revealed, according to a Department of Labor news release.

The POV is used to identify mine operators that demonstrated “a recurring pattern of Significant and Substantial (S&S) violations of mandatory health and safety standards at their mines.”

An S&S violation is one that is reasonably likely to result in a serious injury or illness.

The agency provides mine operators with online tools – the POV tool and S&S rate calculator – to help them monitor compliance, informing them how they rate against the screening criteria and when appropriate corrective action needs to be taken.

TRANSPORTATION

Poor decision making on the part of the company and its employees led to the Nov. 30, 2018, death of a railroad worker who was struck by a train.

A track welder and his spotter were assigned to perform maintenance on some rails near Estill, SC.

The crew of the northbound freight train wasn't aware work was being

done on the track and didn't see the welder in time to stop the train.

The National Transportation Safety Board said the probable cause of the incident involved decisions by:

- CSX Transportation management to use train approach warning instead of establishing working limits
- the watchman to stop performing train detection and warning to do other work while the welder was still on the tracks, and
- the welder to remove his high-visibility safety apparel before leaving the work site.

COURT DECISION

On Sept. 3, an administrative law judge with the Occupational Safety and Health Review Commission (OSHRC) vacated an OSHA working surface-related citation against a railcar manufacturer that argued the regulation didn't apply to it.

The citation stemmed from a January 2020 inspection when two OSHA inspectors saw employees working on top of railcars at a Greenbriar Central LLC plant without fall protection in areas where they could fall through access holes into the interior of the cars.

This led to the citation for violation of 1910.28(b)(3)(i), which says employees need fall protection to keep from falling through any hole 4 feet or more above a lower level.

The company argued the standard didn't apply, and if it did, that the railcar manufacturing industry didn't receive adequate notice of that fact.

The judge found the standard did clearly apply to the railcar manufacturing industry and should have led to a citation.

However, because of OSHA's published 1996 interpretation of the standard – called the Miles Memorandum, in which the agency said rolling stock was excluded from enforcement of the rule – the judge found the industry did not receive adequate notice that it did technically fall under the standard and vacated the citation.

WHERE TO GET HELP

ASSESSMENT DETERMINES READINESS FOR NEW TECH

The National Safety Council (NSC) released a new free online assessment – via its Work to Zero initiative – to help employers assess their readiness level to embrace new safety technology.

Work to Zero's goal is to reverse the upward trend of workplace fatalities through technology.

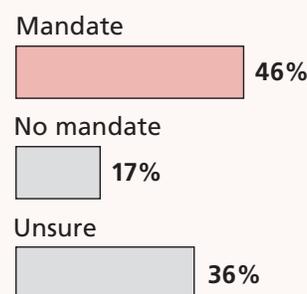
The assessment, “Determining Readiness for Safety Innovation and Industry 4.0,” covers:

- barriers to implementing safety technology
- readiness and the importance of the human mindset
- phases of readiness, and
- readiness to pilot technology.

Info: [nsc.org/newsroom/nsc-dekra-unveil-digital-readiness-tool-to-improve](https://www.nsc.org/newsroom/nsc-dekra-unveil-digital-readiness-tool-to-improve)

What safety officers told us

Are most employers instituting vaccine mandates for their employees?



Source: Gartner Inc.

New federal guidance and COVID's Delta variant combined to shift most executives' stances regarding vaccine mandates, with many now embracing the requirements.

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?

Short staffed and behind on a big order: Is OT the answer or a safety nightmare?

The Scenario

Manager Mike Kelly was on his regular safety walk when he suddenly realized how quiet it was in the plant.

Did I forget about a holiday or something? Mike thought.

But as he rounded a corner he saw a single forklift in the distance, turning down another aisle.

He could also hear the sounds of some workers on the dock.

So not a holiday, just a slow day, Mike thought. *But I thought we had a big order to fill.*

'We need overtime'

"Wow, it's quiet out there," Mike said as he walked into the office.

"Funny, we were just talking about that," supervisor Janet Costello said.

"We're short staffed, Mike," Jack Hall, the shipping supervisor, said.

"You mean it's that quiet out there because we've lost that many people?" Mike asked.

"Yes," Janet said. "From what I've read in the news – and from what some of the workers who left told me – a lot of it has to do with the pandemic."

"Who cares why?" Jack asked. "The point is we have a major order to fill and a shortage of workers to get the job done."

"We need overtime, and lots of it," he added.

"Yeah, but too much OT leads to safety-related mistakes, and it sounds like our crew is overworked to begin with," Mike said.

If you were Mike, what would you do?



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 North America, Johns Creek, GA

What Roy would do: It's important to remember that people are not robots.

Having employees work extra hours should be done cautiously.

There should be a plan to rotate staff and minimize the potential for incidents to occur when personnel work longer than the normal shift.

Reason: It may be beneficial for the company to house employees or provide hotel accommodations and other such considerations.

This would help to minimize the potential for incidents associated with exhausted employees as they travel to and from their homes.

2 Gregg Richley, Safety & Training Manager, Ajax Tocco Magnethermic Co., Warren, OH

What Gregg would do: A Manufacturer plant exists to manufacture.

I don't see any company turning down orders, so I believe they will work the OT regardless.

Reason: As for safety, plan on the safety manager being on the plant floor more often.

Or an outside safety consultant could be hired to be out on the plant floor until things settle down a bit.

If toolbox talks aren't used, consider instituting them on a daily, or at least weekly basis.

Offering an extra break or longer lunch could also help to ease the strain.

OUTSIDE THE LINES

■ THINGS THAT GO BOOM: SAFELY BLOWING STUFF UP

Instead of making sure things don't explode, some safety pros got the chance to make sure things exploded safely during the pandemic.

This was part of a study on medieval gunpowder conducted by chemists and historians at the U.S. Military Academy at West Point, NY.

Researchers studied the explosive power of "nearly two dozen gunpowder recipes used by medieval gunners between 1338 and 1460," according to the *NY Times*.

The research is meant to help historians in studying medieval texts and determining if recipes were crafted with deliberate intent.

The story points out that researchers were "accompanied by a number of safety officers."

And you thought "exploding safely" was an oxymoron.

Did you know ...

PPE should be stored properly to prevent damage



OSHA says **PPE** needs to be stored in a way that it **won't become damaged or unusable.**

Source: OSHA

Improper storage of PPE can render it unsafe to use. For example, storing a half-face respirator incorrectly could cause the mask to warp, making it fit poorly.

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

Safety

COMPLIANCE ALERT™

Get more online:

- Training Shops
- Safety Checklists
- Scenario Responses



www.SafetyComplianceAlert.com

November 15, 2021

WHAT'S ONLINE

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

www.SafetyComplianceAlert.com



Training Shop

Young workers



Checklist

Personal protective equipment



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.

WHAT'S INSIDE

2 Sharpen Your Judgment

Safety-conscious worker dead after ignoring rules?

3 What's Coming

OK to be high on the job in New York?

4 Who Got Fined – And Why

Worker killed in fall, harness wasn't tethered

5 What's Worked for Other Companies

Investigations: Avoiding the 'blame game'

6 Safety Regs Update

OSHA begins work on heat hazard rule, requests information

8 Answers to Tough Questions

Clearing up confusion over what is valid COVID-19 documentation

OSHA's top 10 violations for 2021: COVID-19's effects

■ Which standard has more violations than usual?

The COVID-19 pandemic has changed many things, and that includes the top 10 OSHA violations.

At the National Safety Council's Congress and Expo, OSHA Director of Enforcement, Patrick Kapust, provided the 2021 list and some details on the exact violation inspectors are seeing and in which industries:

1. **Fall protection, general requirements**, 1926.501, 5,295 violations. This standard has been No. 1 for 11 years. Inspectors are finding unprotected sides, and failure to use fall protection on low-slope roofs, steep roofs, and around poles. Industries: Roofing,

framing and siding contractors, new single family housing construction, and commercial and institutional construction.

2. **Respiratory protection**, 1910.134, 2,527 violations. This general industry standard rises from No. 3 last year. Inspectors are finding failure to do medical evaluations, fit testing not being done before use, failure to have a written program, to train employees about wearing respirators properly, and employers aren't selecting the right type of respirator for the workplace. Industries: nursing care; medical

(Please see OSHA top 10 ... on Page 2)

PANDEMIC

Federal OSHA: 3 state plans failing to address COVID

Federal OSHA may step in to take over workplace safety regulation from three states – Arizona, South Carolina and Utah – for failing to properly address job-related COVID-19 exposure.

The three states failed to adopt rules at least as effective as federal OSHA's requiring employers to adopt certain COVID-related safety measures.

Failure to maintain approved plans

OSHA-approved plans are in place in 28 states and U.S. territories, and where no plan was approved, federal OSHA retains authority.

States with their own versions of OSHA "can assume responsibility for occupational safety if the government approves their plan for doing so and if the plan remains at least as effective

as federal enforcement," according to *The New York Times*.

However, if a state fails to maintain an effective plan, its authority to regulate workplace safety could be revoked entirely or in part – as in coverage of specific industries could be revoked.

Jim Frederick, acting director of OSHA, told *The New York Times* in a conference call that the three states' "continued refusal (to come into compliance) is a failure to maintain their state plan commitment to thousands of workers in their state."

Representatives from the three states said they feel their OSHA programs had at least proven as effective as the federal agency's, and didn't want to implement COVID-19 measures that would place an undue burden on employers.

NSC CONFERENCE

When safety is thrown a curve ball

When National Safety Council CEO Lorraine Martin thinks about the last 18 months and the world of occupational safety, an experience she had while in the ROTC comes to mind.

In opening remarks at the NSC's Safety Congress & Expo 2021, Martin told a story about ROTC officer training school before her junior year.

She traveled to Abilene, TX, but her luggage didn't ... at least not for the first three days she was there.

She had no uniform, no boots and none of her clothes, so for the first three days, she performed all her basic training exercises in civilian clothes.

First lesson in resilience

By the time graduation from training came around, Martin said she'd forgotten all about her temporarily missing luggage, but her commanding officer remembered.

He told Martin, "You were thrown quite a curve ball, but you handled it

well and you didn't let it derail you."

Martin says up until then, she didn't think "keeping calm and carrying on" was actually a valuable skill.

Safety pros need resilience more than ever, Martin said at the conference.

"We need resilient leaders because we still have some big safety threats," she said. "In the workplace, we continue to square off against COVID-19."

OSHA top 10 ...

(continued from Page 1)

and surgical hospitals; stone cutting and manufacturing; assisted living facilities; and automotive paint, repair and maintenance. Many of these violations were due to the COVID-19 pandemic.

3. **Ladders**, 1926.1053, 2,026 violations. Violators were not using ladders for the purpose they were designed for, allowing employees to stand on the top step, using them on unstable or unlevel ground, and allowing employees to climb while carrying objects or loads that may cause a loss of balance. Industries: Roofing, framing and siding contractors; single family home construction; and residential remodeling.
4. **Scaffolding**, 1926.451, 1,948 violations. Violators were not: providing fall protection, preventing scaffolds from tipping, fully planking platforms, nor installing guard rails. Industries: Masonry, framing, roofing and siding contractors.
5. **Hazard communication**, 1910.1200, 1,947 violations. Violators didn't implement a written hazard communication program, failed to provide information and training to employees, didn't use labels properly, and didn't have safety data sheets readily available. Industries: Masonry and roofing contractors, commercial and institutional building construction, and machine shops. *For the rest of the list, search "OSHA top 10 2021" on our website.*

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.

SAFETY-CONSCIOUS WORKER DEAD AFTER IGNORING RULES?

Safety Manager Pete Travers was struggling through his emotions – anger to sadness then back to anger.

"I can't believe OSHA wants to cite us for this," he said.

"Well, they are," company attorney John Jenkins said.

"Phil worked here for a long time," Pete said. "I wonder every day if there was something else I could have done, but he ignored all of our safety protocols in that incident, and that's what got him killed."

Failed to use straps

"Let's go through it again," John said.

"Phil was an experienced truck driver – he'd been with us for a decade – and he was actively involved in our safety program," Pete said.

"You look up 'employee engagement' and you'd see Phil's picture," Pete explained. "He helped train new employees, the whole nine yards.

"Why he didn't secure that load of cardboard bales is beyond me," said Pete. "Each one weighed 1,500 pounds and they were double stacked inside the trailer.

"That's why we require drivers to use straps – which are readily accessible." Pete added. "Those bales can shift and fall out on you when you open the trailer doors, which is what happened to Phil."

"We can fight this," John said. "It's an obvious case of unpreventable employee misconduct."

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

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

Safety COMPLIANCE ALERT

EDITOR-IN-CHIEF: MERRIELL MOYER
MMOYER@PBP.COM
MANAGING EDITOR: FRED HOSIER
PRODUCTION EDITOR: P.J. FRONZEO
EDITORIAL DIRECTOR: CURT BROWN

Safety Compliance Alert (ISSN 1077-9787), November 15, 2021, Vol. 28 No. 630, is published semi-monthly except once in December (23 times a year) by Progressive Business Publications, 384 Technology Drive, Malvern, PA 19355; PHONE: 800-220-5000. FAX: 610-647-8089. Periodicals postage paid at West Chester, PA 19380. Postmaster: Send address changes to *Safety Compliance Alert*, 384 Technology Drive, Malvern, PA 19355.

Subscriptions: 800-220-5000

This publication is designed to provide accurate and authoritative information in regard to the subject matter covered. It is sold with the understanding that the publisher is not engaged in rendering legal, accounting, or other professional services. If legal or other expert assistance is required, the services of a competent professional should be sought. — From a declaration of principles jointly adopted by a committee of the American Bar Association and a committee of publishers.

♻️ Printed on recycled paper.

Copyright © 2021 Progressive Business Publications. Please respect our copyright: Reproduction of this material is prohibited without prior permission. All rights reserved in all countries.

WHAT'S COMING

DRUG TESTING

OK to be high on the job in New York?

■ NO MORE WORKPLACE MARIJUANA TESTING IN THE EMPIRE STATE

Employer drug testing for marijuana use in New York is no longer permitted under most circumstances, according to the state's new guidance.

The Marijuana Regulation and Taxation Act (MRTA) has taken effect, legalizing recreational marijuana use and possession for adults who are 21 and older, effective March 31, 2021.

It also amended the state's legal activities law, prohibiting employers from refusing to hire, employ, discharge or discriminate against anyone who uses cannabis lawfully while off-duty, off-premises and not using employer equipment or property.

When action can be taken

Under the MRTA, drug testing for marijuana isn't permitted except in very limited circumstances, such as if the test is required by law, according to law firm Jackson Lewis.

Drug test results can't serve as the basis for proving an employee was impaired by marijuana. Nor is the

smell of marijuana alone adequate proof of "articulable symptoms of impairment."

Employers can take employment actions regarding cannabis if an employee exhibits those specific articulable symptoms that decrease or lessen the employee's performance of their duties or interferes with the employer's obligation to provide a safe workplace.

Articulable symptoms

If an employee is impaired by marijuana while on the job, the employer can take action as long as the employee exhibits symptoms of impairment.

The tricky part is that "there is no dispositive and complete list of symptoms of impairment," according to the guidance document.

The state says the symptoms are "objectively observable indications that the employee's performance of the duties of their position are decreased."

An example provided by the state is an equipment operator who is running heavy machinery "in an unsafe and reckless manner."

SETTLEMENT

Foundry corrects 60 violations, pays \$276K OSHA fine

A New York-based iron foundry agreed Oct. 14 to correct 60 cited violations and pay \$276,189 in fines in a settlement with OSHA.

Frazer & Jones Co. Inc. of Syracuse also agreed to use enhanced corrective measures in addressing the hazards OSHA found in its facility.

According to a Department of Labor news release, the company was cited in 2019 after inspectors found:

- employee exposure to crystalline silica, silica dust and combustible dust
- inadequate respiratory protection
- fall, struck-by and caught-between hazards
- unsafe walking surfaces
- poor safeguards for confined spaces

- inaccessible fire extinguishers
- impeded exit routes
- ineffective pest removal, and
- build-up of bird feces on equipment.

Problems to address

Enhanced abatement measures the company agreed to take include:

- semi-annual inspections by a safety consultant
- addressing the consultant's recommendations and sharing them with the safety committee and corporate board of directors
- putting a system in place to address employee complaints, and
- having a ventilation consultant evaluate the dust control system for an overhaul.

TRENDS TO WATCH

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

■ STATE RELEASES PANDEMIC COMPLIANCE DATA

On Oct. 13, Minnesota OSHA released its compliance data for the period between March 1, 2020 – the start of the pandemic – and June 30, 2021.

The state agency received 23,958 email and phone inquiries during that period, which is a 100% increase over the previous year.

According to its *Safety Lines* newsletter, the agency also:

- received complaints 2,121 non-formal complaints and 396 formal complaints, with 176 of those related to COVID-19, an increase of about 430 over the previous year
- conducted 1,530 inspections, with 217 being COVID-19 related
- issued 2,200 citations, 173 of those issued on inspections with a COVID-19 component and 58 being general-duty citations, and
- fielded 547 intakes through its Discrimination Team, which resulted in 125 cases that are being pursued, 95 of which designated as having a COVID-19 component.

■ NO REIMBURSEMENT FOR MEDICAL MARIJUANA

The Minnesota Supreme Court, in two separate rulings, found that workers' compensation payers don't have to reimburse for medical marijuana because the drug is illegal under federal law.

Rulings in *Musta v. Mendota Heights Dental Center & Hartford Insurance Group* and *Bierbach v. Digger's Polaris and State Auto/Unified Fire & Casualty Group* reversed lower court decisions finding reimbursement for medical marijuana was not illegal.

One judge dissented, arguing both decisions overextended the federal law's preemptive reach.

WHO GOT FINED – AND WHY

Roundup of most recent OSHA citations

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

Worker killed in fall, harness wasn't tethered

OSHA cited a New York scaffolding contractor after a worker fell to his death because his fall arrest harness wasn't tethered.

The 21-year-old worker was installing scaffolding on a seven-story building in Brooklyn when he fell almost 50 feet to the ground below.

Fine: \$300,370

Company: Everest Scaffolding Inc., Bronx, NY

Business: Specialty trade contractors

Reasons for fine:

Two willful violations for failure to:

- ensure employees erecting scaffolding were using fall arrest PPE properly
- provide training on fall hazards to employees erecting scaffolding

Two serious violations for failure to:

- ensure employees anchored fall arrest PPE to anchorage capable of supporting 5,000 pounds or more
- inspect fall arrest PPE prior to each use

Failure to provide proper machine guards: \$558K fine

OSHA cited a Texas bath and shower manufacturer after an inspection revealed multiple machine guarding and other safety violations.

The November 2020 inspection found the company failed to use required machine guards and to provide employees with fall protection.

This led to multiple willful and repeat violations across two individual citations.

Fine: \$502,050 (under the first citation); \$56,771 (under the second citation)

Company: Clarke Products Inc., Waco, TX

Business: Plastic plumbing fixture manufacturing

Reasons for fine:

Two willful violations for failure to:

- guard machine points of operation
- guard non-working portions of bandsaw

15 repeat violations, including failure to:

- keep 3 feet of clear space around storage of combustibles
- ensure pedestal fans in spraying areas were explosion-proof
- guard all belts, pulleys, gears, shafts and moving parts

Five serious violations, including failure to:

- ensure electrical equipment was firmly mounted
- close unused openings in electrical boxes

Employee falls while lowering himself into pit

A Wisconsin water technology facility was cited by OSHA when an employee was injured in a fall as he was lowering himself into a water test pit.

The employee was lowering himself into the nearly 30-foot deep pit when the guardrail loosened, causing him to fall and strike his head on a support beam.

Fine: \$234,054

Company: Xylem Inc., Pewaukee, WI

Business: Industrial valve manufacturing

Reasons for fine:

One willful violation for failure to:

- ensure employees working 4 feet or more above dangerous equipment were protected from falling

Nine serious violations, including failure to:

- ensure employees on walking-working surfaces with unprotected edge 4 feet or more above lower level were protected from falling
- develop procedures for safe permit entry operations
- ensure employees used safe means of access to and from walking-working surfaces
- provide an attendant outside the permit space during entry operations
- prepare entry permits

WORKERS' COMP DECISIONS

Can agreement prevent worker from collecting?

A truck driver injured in another state wants to file a claim, but her employer says she can't because of a previous agreement she signed. Can she collect?

What happened: The driver was injured on the job while in a different state than her employer's headquarters. Despite an agreement she signed saying all claims would be handled in her employer's home state, she filed a claim in the state where she was injured.

Company's reaction: You signed an agreement, so you can't collect.

Decision: She could collect. The court stated that in most circumstances, a worker can't sign away their right to comp benefits, making the agreement void.

Cite: *Sellers v. Venture Express*, AL Court of Appeals, No. 2190165, 2/12/21.

Injured worker concealed the truth: Can he collect?

An injured worker concealed he was a firefighter while collecting benefits. Can he continue to collect?

What happened: The worker was collecting benefits for a neck injury sustained during his 30 years as a steamfitter. During several exams with different doctors, he stated he didn't work or engage in physical activity.

Company's reaction: We know you've been working as a firefighter.

Decision: He couldn't continue to collect. However, the court said his actions weren't so egregious as to disqualify him from future benefits.

Cite: *Matter of Dunleavy v. Federated Fire Protection*, NY Court of Appeals, No. 531679, 3/11/21.

REAL PROBLEMS, REAL SOLUTIONS

Investigations: Avoiding the 'blame game'

Sometimes, when safety people go out on a plant floor, other employees go the other way.

Why? Because it's often perceived that safety people find things that are wrong and then fix them.

The result: resentment and fear.

Addiction to blame often undermines safety programs and employee engagement.

Blame often arises from Root Cause Analyses (RCA), performed after an incident, such as an injury or death.

10 ways to improve RCAs

How can companies perform RCAs without playing the "blame game," that has a negative impact on employee engagement?

Here are 10 steps to improve RCAs:

1. **Avoid labels:** Be careful of using phrases like, "the worker had a poor attitude." Instead, objectively describe a specific behavior that led to an incident. Accurately describing the behavior will help to successfully control it.
2. **Give specific instructions:** Telling employees to "work safely" doesn't work as well as giving specific instructions. Example of a good instruction: "Put the key in your pocket after you lock out the machine to remove the risk of energy being activated by another worker."
3. **Avoid the fault-finding mindset:** Look for the positive as well as the negative. Example: Identify solutions employees have come up with for safety problems. Spread those around as best practices and get employees to talk about techniques they've found to work more safely.
4. **Set specific learning objectives:** Have training objectives and observable performance conditions that can be measured.
5. **Commit to continuous improvement:** Use "plan, do, check, act." Each run through the cycle should bring you closer to your goals. Perform RCAs for near hits. Better near hit reporting means your number of near hits will go up short term, but that's a good thing.
6. **Train employees about RCA:** Teach them about different RCA techniques using a mock incident. Employees with special safety roles should receive more specialized RCA training. Document the effectiveness of the training.
7. **Track your progress,** including leading and lagging metrics. Tracking near hits is great, but make sure everyone understands how to interpret trends. Metrics should relate to issues that are a challenge for your company (e.g. overdue action items). Incorporate what you've tracked into a robust corrective action program.
8. **Improve corrective action management:** Once you're identified root causes, it's time to develop good corrective actions. Every root cause should be addressed by a corrective action. If a RCA points to problems with an existing job safety analysis, be sure to include corrections in the JSA. The most effective corrective actions are those implemented at the design level.
9. **Share responsibility for RCA:** Responsibility should be shared by team members to ensure you're receiving different perspectives. This helps keep your investigation system intact if some of the primary people move on. This includes having management buy-in. If management doesn't sign off on RCA, you may not have the authority you need to identify systemic issues.
10. **Ensure employee engagement:** Without employee involvement, you won't find accurate root causes, and then you'll fail to take good corrective actions. Involve workers at all levels: supervisors, shop floor and office. Share progress on investigations and corrective actions. You can't maintain an incident investigation process by yourself. *(Adapted from a presentation by Phil Mole, EHS and Sustainability Expert, Velocity EHS, Chicago, at ASSP's Safety21 Conference)*

TRAINING TIPS

Press operator may have lived if LOTO was followed

A press operator's tragic death inside the machine he used on a daily basis illustrates why workers must remember to lock out equipment before servicing it.

A 39-year-old hay press operator was performing his usual job processing hay into high-density bales for shipping.

Near the end of his shift, the plant supervisor asked him and two other workers to prepare the machine for maintenance.

The operator was responsible for locking out the equipment, but instead, he crawled into the machine on its conveyor.

As he pushed a hay bale along the conveyor, he triggered a scale that caused the machine's guillotine blade to drop at a certain weight, resulting in near decapitation.

Washington State's Department of Labor & Industries found the incident could have been avoided if lockout/tagout protocols had been followed.

Make sure equipment can safely handle heavy loads

Math isn't everyone's strong suit, but when it comes to calculating load weights for cranes or forklifts, the operator needs to know for sure if the equipment can handle the lift safely.

Failure to know if the equipment can handle the load can result in tragedy, so workers who don't trust their math skills should consult with a supervisor before going forward.

For example, OSHA recently cited a Texas contractor working on I-10 near Beaumont after a crane operator failed to determine the correct weight of a load.

As the load was being lifted, the boom fell off the crane and struck a passing car, killing both occupants.

HOT ENVIRONMENTS

OSHA begins work on heat hazard rule, requests information

After announcing its intentions earlier this year, OSHA under the Biden administration officially starts work on a regulation to protect workers, outdoors and indoors, from heat hazards.

OSHA will publish an Advance Notice of Proposed Rulemaking (ANPRM) for Heat Injury and Illness Prevention in Outdoor and Indoor work Settings in the Oct. 27, 2021, *Federal Register*.

At this time, OSHA doesn't have a specific standard for hazardous heat conditions. The ANPRM begins the process to establish one. (OSHA has used the General Duty Clause to issue citations for this in the past.)

The ANPRM starts a comment period to gather expertise and perspectives on the subject. The comment period will last for 60 days after Oct. 27.

Agency looking for comment

OSHA is requesting comments on:

- employee heat exposure
- contributing factors to heat stress in the workplace
- heat illness prevention programs
- engineering and administrative controls
- PPE

- acclimatization
- monitoring
- planning and responding to heat-related illness emergencies
- worker training and engagement, and
- costs and benefits, including impact on small businesses.

For more information, go to [regulations.gov](https://www.regulations.gov)

choose between a strong economy and good, safe jobs" when listening to and learning from stakeholders can ensure both.

Law firm Jackson Lewis told *Government Executive* that Parker's confirmation as the head of OSHA would signal "significant regulatory and enforcement changes" at the agency.

Parker new head of OSHA: What it means

Doug Parker, the Biden Administration's pick to head OSHA, has received confirmation by Congress to assume the role of Assistant Secretary of the Department of Labor in charge of the agency.

Parker, who was most recently employed as the head of Cal/OSHA, was granted the position Oct. 25 with a 50-41 vote.

At a confirmation hearing in May, Parker said that as OSHA's chief, he'd continue doing what he did in his other government roles, which was maintaining a dialogue with stakeholders, according to *Government Executive*.

Parker said there was no reason "to

Automatic braking systems laws considered

The U.S. Department of Transportation recently announced new laws are being considered requiring automatic emergency braking (AEB) systems in commercial vehicles.

AEB systems are a type of collision avoidance device that applies brakes instead of the driver and determines how much force to use when doing so.

Critics of current versions of AEB systems feel there's a danger they could cause crashes by suddenly stopping the vehicle over phantom objects in the roadway without any involvement from the driver, according to law firm Searcy Denney Scarola Barnhart & Shipley.

SHARPEN YOUR JUDGMENT – THE DECISION

(see case on Page 2)

This situation isn't based on a court case, so we're not sure if the company was cited or not, but there are still some valuable lessons to learn here.

Investigators found the employer did provide straps for drivers to use to keep the bales from falling over and becoming a hazard, but drivers failed to use them.

In this incident, the trailer was also parked on uneven ground when the driver opened the doors, and that may have led to the load becoming even more unstabilized.

The investigation report also pointed to the fact that employers are responsible for ensuring that all loads transported on trucks and trailers must be properly secured and distributed.

There are both state and federal regulations that apply to that requirement.

ANALYSIS: MAKE SURE SAFETY EQUIPMENT IS USED

While employees may be provided with safety equipment to use to mitigate or eliminate hazards, the employer is also responsible for ensuring the use of that equipment.

This incident, for example, may have been completely avoided if a supervisor would have checked the load before the driver left the premises.

Ideally, the supervisor would have noticed the bales weren't strapped down and reminded the driver to use the provided equipment before he drove away.

Cite: *Washington State Fatality Assessment & Control Evaluation Program Report No. 71-207-2021*, Aug. 27, 2021. Dramatized for effect.

FEDERAL ACTIVITIES

Government notices on workplace safety

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

NEW PROGRAM

OSHA is starting a regional emphasis program (REP) in the Midwest targeting hazardous substances – such as asbestos, formaldehyde and cadmium – which can lead to cancer and other long-term serious health diagnoses years after exposure.

The agency will focus these inspections on employers with documented employee exposure through previous agency inspections and at companies in similar industries.

This differs from typical programs because OSHA found usual injury and illness data doesn't adequately identify exposure since symptoms can occur years after exposure, according to a Department of Labor news release.

Following a three-month outreach that began on Oct. 1, OSHA will begin inspecting select manufacturing industries under the REP in Kansas, Missouri and Nebraska.

LAWSUIT

A Texas luxury car dealer that allegedly retaliated against an employee who raised COVID-19 concerns is being sued by OSHA.

The employee was fired after warning co-workers about potential COVID-19 hazards in the workplace.

After learning that a co-worker at Austin-based Hi Tech Motorcars tested positive for the coronavirus, the employee requested management notify other employees immediately regarding their risk of exposure, according to a DOL news release.

When management didn't take any action, the employee sent a companywide email about the potential hazard.

Less than an hour later, the

employee was fired.

OSHA found the employee had exercised their whistleblower rights and the termination was illegal, so it filed a lawsuit against the company seeking reinstatement, lost wages and benefits resulting from the termination, reimbursement for costs and expenses, compensatory damages, and exemplary or punitive damages.

HAZARDOUS MATERIALS

The Department of Transportation's Pipeline and Hazardous Material Safety Administration (PHMSA) is reviewing five industry and trade association petitions to update hazmat regs.

The five petitions deal with:

- new proper shipping names for lithium batteries (LBs) in cargo transport units and battery-powered equipment and vehicles. PHMSA's Emergency Response Guidebook includes separate emergency response guidelines for lithium-ion, lithium-metal and wet batteries, which can slow down a response.
- modifying the definition of "liquid." A redefinition would be based on the penetrometer test approved under United Nations modal regs.
- increasing the weight threshold for large LBs under the Materials of Trade above 66 pounds. Larger format LBs that can power a nighttime construction site must currently be transported as fully-regulated Class 9 hazmats, which entails strict packaging, handling and training requirements.
- making food-grade vinegar with 30% or less by weight acetic acid exempt from bulk shipment Special Permits, and
- lowering the minimum steel thickness threshold for reconditioning and reuse of steel drums. Hazmat packaging reconditioners asked for the change.

Info: [phmsa.dot.gov/hazmat/rulemakings/hazardous-materials-petitions](https://www.phmsa.dot.gov/hazmat/rulemakings/hazardous-materials-petitions)

WHERE TO GET HELP

NEW ONLINE COURSE ON RECOGNIZING IMPAIRMENT

A new one-hour eLearning course for training supervisors and safety professionals on recognizing and responding to impairment in the workplace is now available from the National Safety Council (NSC).

The course was tested before release with "real-world supervisors and safety professionals," and covers:

- the importance of recognizing and responding to impairment
- supervisor responsibilities when recognizing impairment
- common causes of impairment (alcohol, cannabis, fatigue, mental distress and more), and
- common signs and symptoms of impairment.

More information can be found at [nsc.org/impairmenttraining](https://www.nsc.org/impairmenttraining)

What safety officers told us

Are employees satisfied with workplace safety now compared to earlier in the pandemic?

Satisfied in 2021

72%

2020

65%

2019

74%

Source: Gallup

Worker satisfaction with job safety took a hit in 2020 after ranking near the top of Gallup's list of job aspects since 1999. It has since rebounded to pre-pandemic levels.

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

Clearing up confusion over what is valid COVID-19 vaccination documentation

Q: Under federal OSHA, can a COVID-19 antibody test be used as documentation to prove an employee was vaccinated?

A: No. An employee must provide the required documentation – a copy of the record of immunization from a health care provider or pharmacy – for proof of vaccination, according to [saferfederalworkforce.gov](https://www.safefederalworkforce.gov).

Why? Presumably because of a recent study showing that unvaccinated individuals who recovered from COVID-19 are twice as likely to be re-infected with the virus as those who have been vaccinated, according to Lawrence Halprin of the law firm Keller and Heckman.

Consequences for failing to electronically submit forms?

Q: Can employers be fined if they fail to electronically submit OSHA 300 and 301 forms?

A: Yes, employers can be fined for this, according to James L. Curtis and other attorneys at law firm Seyfarth Shaw.

OSHA has cited employers that failed to upload their information ever since the institution of the electronic submission rule during the Obama administration.

The agency will also likely use the information to send out warning letters, conduct inspections and target employers who do properly record and submit their 300/301 forms, if they happen to have injury and illness rates above their industry average.

Seyfarth Shaw says another thing to be aware of is that the Injury Tracking Application data is also available online and is accessible to competitors, labor unions and employees, which could lead to more complaints filed with OSHA.

Can you ask about vaccination status in Texas?

Q: Can Texas employers request employee vaccination status even though there's an executive order against vaccine mandates?

A: Yes, when read literally the order doesn't explicitly prohibit employers from inquiring into vaccination status, according to Tiffany Cox Stacey and Christine Bestor Townsend, attorneys with law firm Ogletree Deakins.

The order states that employers cannot "compel receipt of a COVID-19 vaccine." So checking on vaccine status or even taking adverse employment action based on vaccine status isn't prohibited. An employer could argue its mandatory vaccine policy doesn't "compel receipt" of the vaccine since the employee could quit their job instead of getting vaccinated.

However, the executive order leaves a lot of unanswered questions that aren't likely to be answered until future legal challenges and government guidance come into play.

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

OUTSIDE THE LINES

■ BE CAREFUL, THOSE ARE DESSERT SPRINKLES!

As a safety pro, you may have had to tell workers not to eat while handling hazardous chemicals – seems like a no-brainer, but some people just don't think, right?

But what about foods that already have the hazardous chemicals in them?

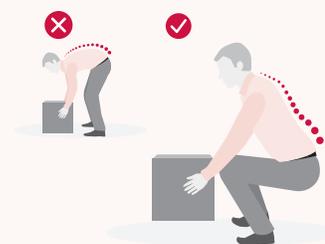
Take for example, a British bakery that's been forced to pull its best selling cookies because the U.S.-made sprinkles it used contain a coloring deemed harmful to humans for most purposes by regulators in the UK, according to NPR.

Red No. 3 can only be used in the UK on cocktail cherries or to decorate eggshells because studies show high doses cause cancer in lab animals.

That doesn't mean you shouldn't tell Dave not to eat while cleaning up that pesticide spill. Shame on you Dave, you know better.

Did you know ...

**Lift with the legs
not with the back**



To **avoid injury**, OSHA says workers should **lift loads** with their **legs not** with their **backs**.

Source: OSHA

If a worker can't safely lift an object by themselves, assistance should be provided, whether in the form of a device like a dolly or cart, or with the aid of a co-worker.

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