



Joint Safety Committee  
Oregon Pacific-Cascade Chapter, NECA  
IBEW Local 659  
Tuesday December 8, 2020  
Meeting MINUTES

**Roll-call; meeting called to order- VIA ZOOM**  
**Approval of Previous Meeting Minutes**

**1.0 Communications**

- 1.1 Oregon OSHA Temporary Rule- December Milestones
    - 1.1.1 ECP 12/7
    - 1.1.2 ICP 12/7
    - 1.1.3 Training 12/21 on track.
    - 1.1.4 CDC Quarantine duration change to 7days w/test /10days w/out
  - 1.2 ACM (Asbestos Containing Material)- Fact Sheet Handout
- 2.0 New Business:** Monthly Safety Training and Information Packets (distributed)
- 2.1 Safety Packet Review
  - 2.2 EC Magazine
    - 2.2.1 Top Down commitment to Safety
    - 2.2.2 Testing Equipment- Category rating?
    - 2.2.3 Temporary Power
  - 2.3 Safety & Health Magazine
    - 2.3.1 OSHA TOP 10- insights and tips- Falls #1 9/10 years running.
    - 2.3.2 Team Players- frontline supervision in Safety

**3.0 OSHA Injury/Incidents**

- 3.1 280 November- Fall, Stitches (Recordable)

**Next Meeting** – January 12, 2021

**Adjournment**

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Elias Campbell- GEW  
Senior Safety Consultant

January 12, 2021



**Oregon Pacific-Cascade**

**Local Union #659**

Joint Safety Committee  
Oregon Pacific-Cascade Chapter, NECA  
IBEW Local 659  
Tuesday January 12, 2021  
Meeting AGENDA

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

### **1.0 Communications**

- 1.1 Safety Posters- 2 separate posters this year
- 1.2 OSHA 300 logs 2/1, ITA 3/2
- 1.3 OSHA Whitepaper- Recordkeeping (updated for COVID1-19)
- 1.4 Recordable injuries 2020?

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

- 2.1 Safety Packet Review
- 2.2 Safety & Health Magazine
  - 2.2.1 NFPA 70E- Key revisions
  - 2.2.2 What's ahead for OSHA?
  - 2.2.3 Preventing Catastrophic incidents

### **3.0 OSHA Injury/Incidents**

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

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

**Next Meeting: February 9, 2021**



# **Safety Meeting Packet**

**January 2021**

## 2020 MANHOURS 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	1,167,393	11	106,127	121,874	131,375	134,207	87,815	87,578	90,362	101,177	115,839	82,745	113,484	100,937	
280	Inside Appr.	402,767	11	36,615	38,363	41,208	44,174	33,328	32,639	35,387	35,195	39,572	28,223	39,901	34,777	
280	MAI	62	11	6	0	0	0	0	62	0	0	0	0	0	0	
280	Material	158,602	11	14,418	16,461	18,788	17,128	6,028	8,378	11,945	14,920	20,290	12,861	17,565	14,238	
280	Residential	57,952	11	5,268	5,349	5,689	5,350	4,727	4,941	5,166	5,369	5,094	4,913	6,045	5,309	
280	Resi. Appr.	31,658	11	2,878	2,456	2,687	2,946	2,645	3,098	3,233	3,113	2,583	2,485	3,430	2,982	
280	S & C	249,037	11	22,640	15,972	26,259	25,110	17,907	19,477	21,153	28,288	25,133	20,090	34,009	15,639	
280	S & C Appr.	100,281	11	9,116	8,094	8,355	8,381	7,179	8,082	9,045	10,808	7,515	6,165	10,037	16,620	
	<b>Total 280</b>	<b>2,167,752</b>		<b>197,068</b>	<b>208,569</b>	<b>234,361</b>	<b>237,296</b>	<b>159,629</b>	<b>164,255</b>	<b>176,291</b>	<b>198,870</b>	<b>216,026</b>	<b>157,482</b>	<b>224,471</b>	<b>190,502</b>	<b>0</b>
	<b>Total NECA</b>				<b>177,993</b>	<b>203,700</b>	<b>202,527</b>	<b>134,108</b>	<b>131,792</b>	<b>140,942</b>	<b>165,882</b>	<b>178,469</b>	<b>132,005</b>	<b>192,924</b>	<b>159,885</b>	<b>0</b>
	<b>% NECA</b>				<b>85.34%</b>	<b>86.92%</b>	<b>85.35%</b>	<b>84.01%</b>	<b>80.24%</b>	<b>79.95%</b>	<b>83.41%</b>	<b>82.61%</b>	<b>83.82%</b>	<b>85.95%</b>	<b>83.93%</b>	<b>#DIV/0!</b>
Local#	Contract Type	Annual Total		Average Hrs/Mo	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
659	Inside	238,643	11	21,695	29,095	34,496	30,733	17,497	19,667	16,068	18,896	17,024	16,539	21,083	17,545	
659	Inside Appr.	105,791	11	9,617	10,310	12,964	13,319	8,964	9,891	7,600	8,825	7,562	7,285	10,244	8,827	
659	Material	13,414	11	1,219	2,624	5,836	3,130	223	160	333	200	170	171	259	308	
659	Residential	7,341	11	667	679	697	656	653	696	537	703	651	641	841	587	
659	Resi. Appr.	2,664	11	242	160	162	158	144	200	150	200	379	400	347	364	
659	S & C	5,382	11	489	304	392	497	596	635	473	474	495	467	695	354	
659	S & C Appr.	1,621	11	147	98	164	151	184	141	121	163	161	192	80	166	
	<b>Total 659</b>	<b>374,856</b>		<b>34,078</b>	<b>43,270</b>	<b>54,711</b>	<b>48,644</b>	<b>28,261</b>	<b>31,390</b>	<b>25,282</b>	<b>29,461</b>	<b>26,442</b>	<b>25,695</b>	<b>33,549</b>	<b>28,151</b>	<b>0</b>
	<b>Total NECA</b>				<b>31,948</b>	<b>36,439</b>	<b>28,175</b>	<b>18,266</b>	<b>22,281</b>	<b>17,473</b>	<b>21,071</b>	<b>18,823</b>	<b>17,933</b>	<b>24,790</b>	<b>19,767</b>	<b>0</b>
	<b>% NECA</b>				<b>74%</b>	<b>67%</b>	<b>58%</b>	<b>65%</b>	<b>71%</b>	<b>69%</b>	<b>72%</b>	<b>71%</b>	<b>70%</b>	<b>74%</b>	<b>70%</b>	<b>#DIV/0!</b>
Local#	Contract Type	Annual Total		Average Hrs/Mo	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
932	Inside	106,949	11	9,723	10,576	10,453	10,871	10,592	10,144	9,463	10,822	8,353	8,297	9,235	8,143	
932	Inside Appr.	50,473	11	4,588	5,373	5,172	5,548	4,608	4,617	4,038	4,995	4,086	3,887	4,327	3,822	
932	Residential	3,561	11	324	238	323	327	408	399	339	364	336	262	412	153	
932	Resi. Appr.	1,484	11	135	133	131	150	0	186	157	200	141	155	231	0	
932	S & C	7,319	11	665	662	593	818	932	809	681	670	505	525	555	569	
932	S & C Appr.	938	11	85	243	0	12	0	0	0	161	146	142	194	40	
	<b>Total 932</b>	<b>170,724</b>		<b>15,520</b>	<b>17,225</b>	<b>16,672</b>	<b>17,726</b>	<b>16,540</b>	<b>16,155</b>	<b>14,678</b>	<b>17,212</b>	<b>13,567</b>	<b>13,268</b>	<b>14,954</b>	<b>12,727</b>	<b>0</b>
	<b>Total NECA</b>				<b>14,852</b>	<b>15,089</b>	<b>16,197</b>	<b>15,365</b>	<b>15,051</b>	<b>13,771</b>	<b>16,055</b>	<b>12,455</b>	<b>12,257</b>	<b>13,737</b>	<b>11,815</b>	<b>0</b>
	<b>% NECA</b>				<b>86%</b>	<b>91%</b>	<b>91%</b>	<b>93%</b>	<b>93%</b>	<b>94%</b>	<b>93%</b>	<b>92%</b>	<b>92%</b>	<b>92%</b>	<b>93%</b>	<b>#DIV/0!</b>
<b>Grand Total</b>		<b>2,713,332</b>		<b>246,667</b>	<b>269,064</b>	<b>305,744</b>	<b>303,666</b>	<b>204,430</b>	<b>211,800</b>	<b>216,251</b>	<b>245,543</b>	<b>256,035</b>	<b>196,445</b>	<b>272,974</b>	<b>231,380</b>	<b>0</b>
<b>Total NECA</b>		<b>2,233,837</b>	<b>11</b>	<b>203,076</b>	<b>224,793</b>	<b>255,228</b>	<b>246,899</b>	<b>167,739</b>	<b>169,124</b>	<b>172,186</b>	<b>203,008</b>	<b>209,747</b>	<b>162,195</b>	<b>231,451</b>	<b>191,467</b>	<b>0</b>
<b>% NECA</b>		<b>82%</b>		<b>82%</b>	<b>84%</b>	<b>83%</b>	<b>81%</b>	<b>82%</b>	<b>80%</b>	<b>80%</b>	<b>83%</b>	<b>82%</b>	<b>83%</b>	<b>85%</b>	<b>83%</b>	<b>#DIV/0!</b>

## 2020 MANHOURS 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	983,779	89,434	106,462	115,147	115,858	75,036	70,976	72,279	83,232	95,108	68,675	96,518	84,488	
280	Inside Appr.	306,680	27,880	30,618	33,500	34,398	24,891	22,554	25,184	26,572	29,446	21,799	31,422	26,296	
280	MAI	0	0	0	0	0	0	0	0	0	0	0	0	0	
280	Material	140,146	12,741	15,143	17,245	15,381	4,937	6,708	9,558	12,975	18,186	11,512	15,967	12,534	
280	Residential	35,668	3,243	2,076	3,310	3,405	3,514	3,230	3,280	3,467	3,260	3,160	3,751	3,215	
280	Resi. Appr.	22,187	2,017	1,368	1,594	1,968	2,210	2,133	2,121	2,439	1,707	1,759	2,576	2,312	
280	S & C	223,884	20,353	14,232	15,354	14,423	16,379	18,221	19,655	26,652	23,398	18,976	32,653	23,941	
280	S & C Appr.	107,883	9,808	8,094	17,550	17,094	7,141	7,970	8,865	10,545	7,364	6,124	10,037	7,099	
<b>Total 280</b>		<b>1,820,227</b>	<b>165,475</b>	<b>177,993</b>	<b>203,700</b>	<b>202,527</b>	<b>134,108</b>	<b>131,792</b>	<b>140,942</b>	<b>165,882</b>	<b>178,469</b>	<b>132,005</b>	<b>192,924</b>	<b>159,885</b>	<b>0</b>

Local#	Contract Type	Annual Total	Average Hrs/Mo	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
659	Inside	169,363	15,397	21,883	23,482	18,201	12,132	14,644	11,441	14,035	12,589	11,866	16,058	13,032	
659	Inside Appr.	70,818	6,438	7,218	9,052	8,338	5,180	6,661	5,132	6,017	5,099	4,890	7,448	5,783	
659	Material	6,540	595	2,330	3,209	848	0	0	153	0	0	0	0	0	
659	Residential	2,394	218	115	140	140	174	200	153	222	259	270	509	212	
659	Resi. Appr.	848	77	0	0	0	0	0	0	160	220	248	0	220	
659	S & C	5,382	489	304	392	497	596	635	473	474	495	467	695	354	
659	S & C Appr.	1,621	147	98	164	151	184	141	121	163	161	192	80	166	
<b>Total 659</b>		<b>256,966</b>	<b>23,361</b>	<b>31,948</b>	<b>36,439</b>	<b>28,175</b>	<b>18,266</b>	<b>22,281</b>	<b>17,473</b>	<b>21,071</b>	<b>18,823</b>	<b>17,933</b>	<b>24,790</b>	<b>19,767</b>	<b>0</b>

Local#	Contract Type	Annual Total	Average Hrs/Mo	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
932	Inside	101,380	9,216	9,380	9,765	10,303	10,187	9,835	9,209	10,432	7,922	7,888	8,841	7,618	
932	Inside Appr.	46,949	4,268	4,567	4,731	5,064	4,246	4,399	3,881	4,792	3,882	3,702	4,097	3,588	
932	MAI	0	0	0	0	0	0	0	0	0	0	0	0	0	
932	Residential	8	1	0	0	0	0	8	0	0	0	0	0	0	
932	Resi. Appr.	50	5	0	0	0	0	0	0	0	0	0	50	0	
932	S & C	7,319	665	662	593	818	932	809	681	670	505	525	555	569	
932	S & C Appr.	938	85	243	0	12	0	0	0	161	146	142	194	40	
<b>Total 932</b>		<b>156,644</b>	<b>14,240</b>	<b>14,852</b>	<b>15,089</b>	<b>16,197</b>	<b>15,365</b>	<b>15,051</b>	<b>13,771</b>	<b>16,055</b>	<b>12,455</b>	<b>12,257</b>	<b>13,737</b>	<b>11,815</b>	<b>0</b>

<b>Grand Total</b>		<b>2,233,837</b>	<b>203,076</b>	<b>224,793</b>	<b>255,228</b>	<b>246,899</b>	<b>167,739</b>	<b>169,124</b>	<b>172,186</b>	<b>203,008</b>	<b>209,747</b>	<b>162,195</b>	<b>231,451</b>	<b>191,467</b>	<b>0</b>
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**IBEW MANHOUR RECAP, LAST 5 YEARS  
ALL SIGNATORIES**

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
2016	120,664	133,358	162,382	163,859	195,941	210,338	217,856	206,814	210,997	193,078	170,970	205,394	2,191,651
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	0	2,713,332
Grand Total	879,112	1,009,861	1,128,097	960,502	1,051,471	1,066,747	1,036,631	1,202,863	1,108,473	1,182,390	1,157,244	935,791	12,719,181

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

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
2016	16,662	18,675	20,281	20,110	19,178	20,327	22,710	22,838	30,768	25,836	24,226	26,329	267,940
2017	14,658	21,350	26,115	21,955	23,267	28,077	17,996	26,285	31,534	32,069	36,108	37,772	317,186
2018	21,344	24,542	30,838	24,723	25,527	31,562	27,500	37,546	28,153	26,958	31,873	27,854	338,420
2019	21,197	25,620	29,205	25,630	33,395	27,182	25,193	35,508	41,951	54,575	72,625	52,457	444,538
2020	43,270	54,711	48,644	28,261	31,390	25,282	29,461	26,442	25,695	33,549	28,151	0	374,856
Grand Total	117,131	144,898	155,083	120,679	132,757	132,430	122,860	148,619	158,101	172,987	192,983	144,412	1,742,940

**IBEW MANHOUR RECAP, LAST 5 YEARS  
NECA MEMBERS**

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
2016	99,007	107,686	133,490	133,196	163,472	176,207	186,701	174,821	176,558	160,943	139,243	171,701	1,823,025
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	1,537,446
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	1,995,297
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	2,829,262
2020	224,793	255,228	246,899	167,739	169,124	172,186	203,008	209,747	162,195	231,451	191,467	0	2,233,837
Grand Total	724,271	841,489	931,598	793,481	864,460	875,643	855,001	994,026	898,918	969,911	908,360	761,709	10,418,867



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

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
2016	14,693	15,126	15,662	16,237	14,734	15,707	17,524	17,699	24,756	20,075	18,075	19,713	210,001
2017	10,754	16,802	21,157	17,244	17,899	22,023	13,135	19,344	22,082	20,875	23,069	25,458	229,842
2018	15,797	19,177	23,859	19,105	19,663	21,676	19,398	26,348	20,439	20,201	24,060	20,689	250,412
2019	14,628	17,749	20,192	16,638	23,467	18,332	17,202	23,763	19,442	22,313	26,129	26,555	246,410
2020	31,948	36,439	28,175	18,266	22,281	17,473	21,071	18,823	17,933	24,790	19,767	0	256,966
Grand Total	87,820	105,293	109,045	87,490	98,044	95,211	88,330	105,977	104,652	108,254	111,100	92,415	1,193,631



OREGON PACIFIC-CASCADE CHAPTER

## **Safety Training Topics**

February 2021

Working in Cold Weather

Hypothermia

Frostbite: Signs & Symptoms

First Aid: Frostbite

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# SAFETY TRAINING TOPIC

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## Working in Cold Weather

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

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

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

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

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

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

### REVIEW AND DISCUSSION

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

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# SAFETY TRAINING TOPIC

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## Hypothermia

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

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

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

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

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

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

### REVIEW AND DISCUSSION

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



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# SAFETY TRAINING TOPIC

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## Frostbite: Signs & Symptoms

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

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

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

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

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

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

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

### REVIEW AND DISCUSSION

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

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# SAFETY TRAINING TOPIC

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## First Aid: Frostbite

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

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

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

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

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

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

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

### REVIEW AND DISCUSSION

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

# Safety

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January 4, 2021

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#### Training Shop

Lockout/tagout



#### Checklist

Confined spaces



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## Which workers more likely to be injured? 2019 stats have answer

### ■ New injury, illness data provides industry insight

Recent injury and illness statistics provided by the Bureau of Labor Statistics (BLS) shows which workers may be more likely to be injured.

A total of 888,220 nonfatal injuries and illnesses causing workers to miss at least one day of work were reported in 2019, “essentially unchanged from 2018,” according to a BLS news release.

Despite the lack of change in the overall numbers, there are a few significant changes for certain industries and occupations.

The manufacturing industry, for example, was the only private industry

sector where the total recordable case rate changed, with a decrease from 3.4 in 2018 to 3.3 cases per 100 FTE workers in 2019.

#### Fluctuations in manufacturing

Several manufacturing groups saw decreases in total recordable case rates, such as motor vehicle body and trailer manufacturing at 6.3 cases per 100 FTE workers in 2019, down from 7.2 cases in 2018.

Spring and wire product manufacturing was the only manufacturing group with an increase in its rate, going from 3.9 cases

*(Please see 2019 stats ... on Page 2)*

### CONTROLLED SUBSTANCES

## Oregon decriminalizes hard drugs: Workplace impact

Oregon voters have made their state the first to decriminalize personal possession of small amounts of illegal drugs, including cocaine, heroin, oxycodone and methamphetamine.

Measure 110 reclassifies possession of small amounts of a list of hard drugs as a violation similar to a traffic offense.

Violators are subject to a \$100 fine, which can be avoided by agreeing to participate in a health assessment, according to law firm Seyfarth Shaw.

Possession of larger quantities of the same drugs will be mostly classified as misdemeanors, while selling and manufacturing drugs remains a criminal offense.

However, the federal Controlled Substances Act applies in Oregon, meaning the drugs decriminalized by the state are still criminally enforceable by federal authorities.

The state decriminalization goes into effect Feb. 1, 2021.

#### Marijuana decriminalization

While Oregon is the first state to decriminalize hard drugs, 26 states and the District of Columbia have decriminalized the possession of small amounts of marijuana, according to the Drug Policy Alliance.

Other jurisdictions are experimenting with decriminalization through Law Enforcement Assisted Diversion (LEAD) programs, which direct people to support services instead of arresting them for certain drug law violations.

Employers can still prohibit possession of, and impairment by, these drugs in the workplace, and managers should be trained on reasonable suspicion.



# MINE SAFETY

## INSPECTOR GENERAL

### Watchdog says MSHA's silica regs lacking

The Mine Safety and Health Administration's (MSHA) outdated regulations on respirable crystalline silica are not protecting miners from exposure to the hazard, according to the Department of Labor's Office of Inspector General (OIG).

MSHA has done very little to address the hazard of respirable crystalline silica, which a growing body of evidence shows is a major factor in coal miner deaths and illnesses.

A Nov. 12 report by the OIG points to current regulations being insufficient with an out-of-date silica exposure limit, sampling that's carried out too infrequently to be protective and the inability to fine mine operators solely for excess silica exposure.

#### Recommendations

The OIG report recommends MSHA:

- adopt a lower legal exposure limit for silica in coal mines based on recent scientific evidence
- establish a separate silica standard

allowing the agency to issue citations and fines based on the silica exposure limit alone, and

- enhance its sampling program to increase the frequency of inspector samples where needed by implementing more of a risk-based approach.

MSHA didn't agree, but said it will still take appropriate corrective action.

### 2019 stats ...

(continued from Page 1)

in 2018 to 5.4 cases per 100 FTE workers in 2019.

#### Days away from work

The 2019 data show the same 10 occupations accounting for 33.2% of days away from work cases of all private industry as in 2018:

- nursing assistants
- heavy and tractor-trailer truck drivers
- laborers and freight, stock and material movers, hand
- light truck drivers
- construction laborers
- maintenance and repair workers, general
- stockers and order fillers
- janitors and cleaners, except maids and housekeeping cleaners
- registered nurses, and
- retail salespersons.

Incidence rates involving days away from work for all 10 occupations increased in 2019, with laborers and freight, stock, and material movers, having the highest number of cases with 64,160, followed by heavy and tractor-trailer truck drivers with 47,990.

There were also changes in the median number of days away from work, with heavy and tractor-trailer truck drivers having a median number of 19 days, down from 23 days in 2018.

Light truck drivers saw an increase from 16 days in 2018 to 20 in 2019, and the median days for maintenance and repair workers (general) and laborers and freight, stock and material movers (hand) increased to 12 days in 2019 from 10 days in 2018.

## 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.*

### ■ WERE TRENCH DIMENSIONS MEASURED CORRECTLY?

Safety Manager Pete Travers was eating his lunch in the cafeteria instead of his office for a change.

A few other people came in and sat down a socially acceptable distance away, including John Jenkins, the company attorney.

John waved a "hello" at Pete and Pete responded in kind as John sat down across the room.

The cafeteria was quiet until –  
**CRUNCH! CRUNCH! CRUNCH!**

John was eating hard pretzels!

"Hey, John," Pete said in a last-ditch effort to stop the assault on his ears. "Didn't you say we had an OSHA citation to discuss?"

#### Altered to fit worksite

"OSHA says two of our employees were observed working in an unsafe trench," John said, once they got to his office. "The trench wasn't benched or sloped properly, according to the citation."

"We have a trench plan in place, but the supervisor said it wouldn't work at this particular site," Pete said. "He told me he measured the trench and sloped it accordingly to make sure it conformed to OSHA requirements."

"The trench plan is always our best bet, but sometimes a worksite's layout doesn't allow for it, and a supervisor has to make changes," Pete continued.

"If he took proper measurements and was in the process of making the changes, we should be able to fight this," John said.

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

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

## Safety COMPLIANCE ALERT

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## WHAT'S COMING

### PANDEMIC

## Study: COVID more severe in construction

■ WORKERS IN THE INDUSTRY 5 TIMES MORE LIKELY TO BE HOSPITALIZED

Construction workers are almost five times more likely to be hospitalized for the coronavirus compared to non-construction workers, according to a study from researchers with The University of Texas at Austin.

Researchers at the COVID-19 Modeling Consortium at UT made the discovery from hospitalization data in Austin from March to August.

The findings mirror an earlier report from the CDC that the construction sector was ranked No. 2 in frequency of workplace outbreaks in Utah.

The researchers say the higher vulnerability among construction workers is due to:

- continuation of construction work throughout the pandemic, even during stay-home orders – on March 31, Texas declared construction work to be “essential”
- the nature of the work which includes close contact with others, and
- the demographics of construction

workers (more likely to be Hispanic). Lauren Ancel Meyers, a professor with the consortium, says Hispanic workers are more likely to face more overlapping risks.

In the Austin area, construction workers are:

- disproportionately Hispanic
- more likely to be underinsured
- have more underlying health conditions linked to severe COVID-19 cases
- more likely to live with more people (increasing the chance of virus spread), and
- are more likely to feel pressured to work due to factors such as lack of paid sick days.

### No need to stop working

Meyers says the study's results don't mean we need to stop construction work. “It means we need to go to great lengths to ensure the health and safety of workers when they do go to work,” she said.

The study's results are published in the JAMA Network Open, a subsidiary of the Journal of the American Medical Association.

### RETALIATION LAW

## Are you at risk of COVID whistleblower complaint?

The U.S. Department of Labor says about 30% more whistleblower complaints have been filed with federal OSHA in 2020 compared to the same time last year – many related to the coronavirus pandemic.

The No. 1 way to avoid these claims is to follow recommendations by OSHA and the CDC.

Law firms also recommend you:

- Explain to supervisors that safety complaints about coronavirus are protected activity.
- If an employee refuses to work, listen to what they have to say and discuss the situation with them.
- Document your conversations with the employee.
- Look into the employee's complaint.

- Fix the problem. If the concern is valid, follow up with necessary corrective measures.
- Get back to the employee. Let them know about any investigation and remediation to prevent a potentially unfounded report to OSHA.

### Respect anonymity

Sometimes an employee will go right to OSHA without raising the issue with their employer.

If that's the case and your company is contacted by OSHA, don't try to determine who made the complaint.

If the employer knows or has a hunch about who filed a complaint, it should take extra caution to avoid even the appearance of retaliating.

## TRENDS TO WATCH

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

### ■ NEW PROGRAM ADDRESSES OFFICE WORKERS AND COVID

Michigan OSHA introduced a new state emphasis program Nov. 10 to help ensure the safety of office workers during the pandemic.

The program is meant to increase the agency's presence in office environments and evaluate whether employers are following state mandates to protect workers from COVID-19, according to law firm Littler Mendelson.

MIOSHA inspectors will conduct unannounced inspections to:

- assess remote work policies for compliance with rules requiring implementation of policies “prohibiting in-person work for employees to the extent that their work activities can feasibly be completed remotely”
- interview employees and management to determine if there have been any illnesses due to workplace exposure to COVID-19, and
- evaluate compliance with COVID-19 recording and reporting rules.

### ■ COMMERCIAL DRIVER BREAK RULES PREEMPTED BY FEDS

The U.S. Federal Motor Carrier Safety Administration (FMCSA) issued an order Nov. 17 preempting Washington State's meal and rest break rules for property-carrying commercial motor vehicle drivers.

Washington's rules are more burdensome than federal hours of service rules, which allow the federal agency to preempt, according to law firm Ogletree Deakins.

The FMCSA can preempt state law with federal law when the state regulation “has the same effect as the federal safety rules, is less stringent than the federal safety regulation, or is more stringent than the federal safety regulation.”

# WHO GOT FINED – AND WHY

## Roundup of most recent OSHA citations

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

### Worker caught, killed in conveyor belt: \$10K fine

An automotive maintenance shop was cited by Indiana OSHA after an employee was killed by a piece of equipment.

The worker suffered severe injuries while trapped in a conveyor belt lifting device and was later pronounced dead by medics at the scene of the incident, according to Fox 55 News.

**Fine:** \$10,000

**Company:** Custom Maintenance Solutions, Fort Wayne, IN

**Business:** Other automotive mechanical and electrical repair and maintenance

**Reasons for fine:**

*One serious violation for failure to:*

- guard ingoing nip point created between moving conveyor belt and stationary safety bumper bar

*One non-serious violation for failure to:*

- report work-related death

### No cave-in protection for workers in 24-foot trench

Indiana OSHA cited a construction contractor for failing to provide protection for employees working in a 24-foot-deep trench.

Inspectors also found several serious trench-related violations involving insufficient supports, failure to keep materials and equipment at least 2 feet away from the excavation's edge and allowing an employee to work in a trench that was accumulating water.

**Fine:** \$191,398

**Company:** Land Construction Corp., Laotto, IN

**Business:** Water and sewer line and construction

**Reasons for fine:**

*One willful violation for failure to:*

- protect employees working in excavations from cave-ins by using

adequate protective system  
*Ten serious violations for failure to:*

- ensure employees were wearing hard hats in area where hazards of flying and falling objects existed
- protect or support 6-inch water main in excavation
- provide ladders, ramps or other safe means of egress in 24-foot-deep trench
- prevent employees from working in trench that was accumulating water
- keep materials and equipment at least 2 feet from trench's edge
- ensure competent person would remove employee exposed to trenching hazard from hazardous area
- prevent use of trench shield system missing spreader bar
- ensure all locking pins were in place on trench shield system
- install trench shield in manner to restrict hazardous movement in event of sudden lateral load
- protect employees working in trench from cave-in when entering or exiting area protected by shields

### Store owner fails to protect workers from COVID-19

Cal/OSHA cited five grocery stores owned by Cincinnati-based Kroger Company for failing to protect workers from COVID-19 because they didn't update their workplace safety plans to address the virus.

**Fine:** \$104,380 (ranging from \$13,500 to \$25,560 at each of the five stores)

**Company:** Kroger Company, Cincinnati (doing business as Ralph's or Food 4 Less in Southern California)

**Business:** Supermarkets and other grocery stores

**Reasons for fine:**

*Multiple serious violations, including failure to:*

- install physical barriers between employees and customers at cash registers
- provide effective training on the coronavirus for employees
- immediately report COVID-19 fatality at two locations

## WORKERS' COMP DECISIONS

### Worker claims chemicals caused cancer: Benefits?

Can a worker who claimed he got cancer from chemicals he handled in the workplace get benefits?

**What happened:** An oil rig worker regularly handled dry chemicals as part of his job duties for about two years. Toward the end of that time, he suffered severe abdominal pain and was diagnosed with smoldering multiple myeloma.

**Company's reaction:** You can't prove the cancer was caused by the chemicals you handled at work.

**Decision:** He couldn't collect. The court found evidence provided regarding the chemicals was based on a study lacking proper scientific collection and controls.

**Cite:** *McMillan v. State ex rel. Dept. of Workforce Services*, Wyoming Supreme Court, No. S-19-0218, 6/5/20.

### Can pre-existing condition bar benefits for injury?

A seamstress sought benefits for a work-related knee injury, but can she collect with a pre-existing condition?

**What happened:** The seamstress, who was diagnosed with osteoarthritis, pressed down on the foot pedal of a sewing machine, causing her foot to slip off and twist her right knee. The injury eventually required surgery.

**Company's reaction:** Your pre-existing osteoarthritis contributed to the severity of the injury, making it noncompensable.

**Decision:** She could collect. The court stated an increased risk of harm from employment outweighs the contribution of the pre-existing condition.

**Cite:** *Oceguera v. Labor Commission*, Utah Court of Appeals, No. 20190367-CA, 5/29/20.

## REAL PROBLEMS, REAL SOLUTIONS

## Metrics need balance to be effective

When it comes to metrics in safety, there's a lot of confusion over what exactly to focus on.

What are the particular metrics that add value to your organization?

Just because you measure something, however, doesn't mean it's the best metric, or that it has any value at all.

### Leading metrics are misleading

For example, let's say I live in Annapolis, MD, and I want to go to New York City.

Does it make any difference where I've been? Maybe. Am I familiar with how to get there? Have I traveled there before? That makes a difference.

You think it through and say, "I know where I am, so where do I want to be?"

I want to be in New York City, so I can set up one leading metric: I want to be in New York City by 10 p.m. tonight.

But just because I put that number out there doesn't mean there's nothing else that's going to predict, influence or indicate whether I can achieve that metric.

That is unless I measure a bunch of other things, such as weather, traffic, fuel efficiency.

When you're working off of a single leading metric, everything may look good – I'm going to arrive in New York City at 10 p.m. – then suddenly the lagging metric slaps you and you find you didn't arrive on time.

You had no clue in between because you weren't measuring a balanced sampling of metrics.

That's what happens when you measure just lagging metrics or just one leading metric.

But how does this apply to on-the-job safety?

### More than just one number

Let's look at the term "safety performance." What is that?

A lot of people say it's measured by looking at accident rates.

To me, that's one measurement of

safety performance, but not the only one.

One number, one metric, doesn't tell the whole story.

Some say the absence of injury and illness is the same as safety performance. Maybe, but maybe not.

I may not have a disease, but that doesn't mean I have a healthy lifestyle. I can even have a healthy lifestyle, but that doesn't mean I won't get a disease.

So what else can you measure?

I've heard safety performance equates to the presence of controls.

One control that's highly regulated is PPE, but we know from the

## Run your program like it's a business

hierarchy of control that it's low on the totem pole for effectiveness.

If your focus is all about PPE, do you really have safety? Should you expect to have zero accidents?

The answer is no. You'll still have risks and hazards.

Thinking any one metric – whether leading or lagging – can measure your safety success is a myth.

The key is to run your safety program as if it's a business because businesses use multiple metrics to determine their success.

I've been in corporate meetings when management says, "Tell me what one number we need to measure safety."

And you think you have to answer them, but you can tell them it takes more than one metric.

Meanwhile, they're running a business, and they're not running it based on a single number. They're running the business based on multiple metrics.

*(Based on a presentation by Paul Esposito, President, STAR Consultants, Annapolis, MD, at the Virtual AIHce EXP 2020)*

## TRAINING TIPS

### Breaking down the language barrier for safety's sake

Some workplaces are rich with employees who come from diverse cultural backgrounds and who speak a variety of different languages.

So it's extremely important to ensure all employees can understand the safety and health rules by having access to them in the language they are most comfortable with.

OSHA offers a variety of its training materials, including brochures and fact sheets, in Spanish and has offered most of its coronavirus-related materials in a variety of languages, including Arabic, French Creole, Korean and Russian.

If the training isn't available in the language needed, a translator could be hired, or Google Translate could be used, although that is a slow process and it doesn't always offer the most accurate translation.

### Report illustrates dangers of unbalanced loads

Safety pros know an unbalanced forklift or crane can spell trouble, and a recent National Transportation Safety Board (NTSB) investigation into a maritime crane incident serves as an apt example.

Investigators found the Sept. 8, 2019 overturning of a liftboat in the Gulf of Mexico, which led to the injury of one crew member, occurred because of a failure to account for its crane's movements and weights.

Once the 22,500-pound port crane boom was moved from its cradle into a vertical position, its center of gravity shifted about 17 feet, causing the vessel to overturn.

The company's manual didn't include guidance for changes in the position of the boom once the vessel was elevated, revealing inadequate procedures which didn't account for the crane's weight or movements.



## SAFETY REGS UPDATE

### PANDEMIC RESPONSE

## Cal/OSHA COVID-19 rule approved by standards board

California is likely to be the next state to adopt an emergency standard addressing the spread of COVID-19 in the workplace after the state's Occupational Safety and Health Standards Board approved Cal/OSHA's proposed rule.

The board approved the standard Nov. 19, but official adoption is pending a 10-day review period.

While healthcare workers are protected from the coronavirus and other diseases under California's 2009 state law governing infectious airborne illnesses, the emergency standard will apply to all other employers.

### Requirements

The new rules require employers to create written COVID-19 policies addressing hazards specific to the workplace, according to the LA Times.

Face coverings and other PPE must also be provided by employers for their workers at no cost to the employee.

Employers are required to provide free COVID-19 testing in the event of an outbreak, which the standard defines as three or more cases in the workplace within a two-week period.

Existing state mandates regarding the coronavirus were adapted to reinforce those guidelines, including

the requirement to timely notify health officials, Cal/OSHA and effected workers should an employee get a positive test result.

### Court: OSHA misused GDC in fatal crane citation

A marine construction company involved in a fatal crane incident had an OSHA citation dismissed by the Occupational Safety and Health Review Commission (OSHRC) because of the agency's inappropriate use of the General Duty Clause (GDC).

Healy Tibbitts Builders is a Hawaii-based marine construction company performing work for the U.S. Navy in Pearl Harbor.

The work involved hoisting 12,000-pound buoys out of the water for maintenance purposes.

One such buoy broke free from its hoist, fell and killed two workers.

OSHA cited the company for a struck-by hazard under the GDC, and an administrative law judge upheld the citation.

Healy appealed, arguing the judge incorrectly rejected its argument that the GDC is preempted by a provision

of the crane standard under these circumstances.

The crane mounted on the barge "plainly falls within the scope of the crane standard," according to the OSHRC, so OSHA should have made the citation under that standard.

### New respirator was made to curb spread of COVID

The first elastomeric half mask respirator (EHMR) without an exhalation valve – a feature meant to reduce the transmission of COVID-19 – has been approved by the National Institute for Occupational Safety and Health (NIOSH).

This EHMR can be used as PPE and source control to prevent spreading COVID-19, with exhalation accomplished through NIOSH-approved particulate filters.

Approval for the new EHMR was the result of concerns raised about respirators with exhalation valves allowing unfiltered exhaled air to escape into the environment, contributing to the spread of COVID-19 if the respirator's user was sick with the virus.

### SHARPEN YOUR JUDGMENT – THE DECISION

(see case on Page 2)

No, Pete's company lost when the court found that the trench hadn't been measured properly.

OSHA claimed there wasn't adequate benching or sloping for a trench of that size, and that the trench's dimensions weren't correctly measured.

The company argued it measured the trench properly when it included the outside area of the trench opening, up to the cuts in the pavement, making the trench 16-feet wide rather than the 13 feet OSHA claimed.

While the court found the company did incorrectly measure the trench by including the outside of the opening, it said those dimensions still didn't conform to OSHA's standard (29 CFR 1926.652).

Some sloping was evident, but it wasn't at the proper ratio for the size of the trench, and one wall wasn't sloped or benched at all, so the citation and fine were upheld.

### ANALYSIS: READ AND UNDERSTAND REGULATIONS

This case illustrates what can happen when a regulation isn't thoroughly read or fully understood.

The supervisor thought he measured properly, but that particular standard references appendices which contain more details on sloping ratios and configurations.

Reading a standard and being sure to fully understand it before work begins is important for supervisors and safety pros alike.

**Cite:** *Secretary of Labor v. DeNucci Constructors LLC*, Occupational Safety and Health Review Commission, No. 18-1847, 5/15/20. 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).*

#### PPE & COVID-19

The U.S. Centers for Disease Control and Prevention (CDC) released a brief Nov. 10 stating cloth face masks provide a level of personal protection to the wearer against the coronavirus by helping to reduce inhalation of respiratory droplets.

Based on its research, the CDC determined cloth face masks reduce the wearer's exposure to infectious droplets through filtration, including filtration of fine droplets less than 10 microns in size, according to law firm Littler Mendelson.

However, the fabric and construction of an individual mask factors into its performance, as the more layers it has and the higher its thread count the better its level of protection.

Some of the cloth face coverings the CDC studied showed the ability to filter almost 50% of fine particles under one micron in size.

But all of these masks can effectively block most large respiratory droplets (particles larger than 20 microns), and multi-layered masks can capture 50% to 70% of smaller respiratory aerosols (particles under 10 microns) while limiting the forward spread of those they haven't captured.

The CDC should be releasing more information in the near future as it noted "further research is still needed to determine the most effective cloth face mask materials and design" and mentioned that "adopting universal masking policies can help avert future lockdowns."

#### CRIMINAL CHARGES

A former plant manager has pleaded guilty to federal charges and could face up to three years in prison in connection to giving a falsified

document to an OSHA inspector.

Rean Brooks, former manager at Texas Packing Company, a meat packing plant in San Angelo, Texas, pleaded guilty to concealing knowledge of a felony.

The case involved the plant's refrigeration unit, which contained anhydrous ammonia.

In 2018, Texas Packing was operating its facility with 16,500 pounds of anhydrous ammonia – more than 6,000 pounds over the level at which a Process Safety Management (PSM) program is required by OSHA.

The issue was reported to OSHA, and an inspector met with Brooks and others at the plant to let them know about the complaint.

The plant's safety manager said the implementation of a PSM program would cost about \$20,000.

To avoid the costs, an individual at Texas Packing falsified a document to make OSHA believe the plant was in compliance.

According to the U.S. Attorney's Office for the Northern District of Texas, Brooks then gave the falsified document to an OSHA inspector with the intent to deceive the inspector.

Besides the potential prison term, Brooks also faces fines up to \$250,000.

#### OIG AUDITS

The Department of Labor's Office of Inspector General (OIG) plans on taking an in-depth look at OSHA's response to the pandemic in 2021.

Out of seven planned audits for next year, four will focus on the agency's response to the coronavirus.

The 2021 audits will focus on OSHA's COVID-related guidance on the safety of its inspectors, employee safety, its collaboration efforts with other agencies and its use of complainant interviews in complaint inspections.

In addition to the COVID-related audits, the OIG will be taking a look at the respirable silica standard, enforcement against severe violators and methods used to determine the effectiveness of standards.

#### WHERE TO GET HELP

##### ■ REGISTRATION NOW OPEN FOR SAFETYFOCUS 2021

The American Society of Safety Professionals opened registration for its SafetyFOCUS 2021 virtual event.

SafetyFOCUS 2021 offers occupational safety and health courses in a full-day format on topics including business and leadership skills, personal development, construction, ergonomics, risk assessment and management, and safety management systems.

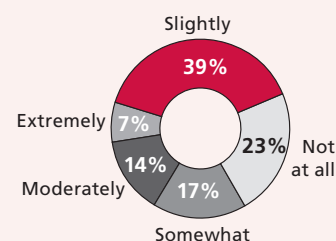
Attendees can earn up to 7 continuing education units to maintain a range of professional certifications, according to an ASSP news release.

The 10-day event will take place Feb. 8-12 and 15-19 from 8 a.m. to 4:30 p.m. CT each day.

More information about the virtual event can be found at [SafetyFOCUS.assp.org](https://SafetyFOCUS.assp.org).

#### What safety officers told us

How concerned are employers about lawsuits alleging labor violations related to COVID-19



Source: Littler Nov. 20, 2020  
"Employer pulse survey report"

A small portion of safety pros were extremely concerned about COVID lawsuits, but many were concerned more about things like COVID's impact on mental health.

*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?

### Worker didn't report injury; he's afraid he'll get COVID at doctor's office

#### The Scenario

Manager Mike Kelly was performing a safety walk-through of the warehouse area.

*Things are looking good today, Mike thought. I haven't seen a single safety violation, and the few potential hazards I saw were easily corrected.*

He was walking toward the warehouse office when he saw a forklift pull up.

The operator carefully – and safely – dismounted from the forklift then winced as though he was in pain once he stepped onto the floor.

His curiosity piqued, Mike approached the forklift operator.

#### 'I'm scared to death'

"Hey Henry, how are you doing?" Mike asked as he approached.

"I'm alright, Mike," Henry replied. "Just stocking the pick locations, like usual."

"You sure you're not hurt?" Mike asked again. "You're limping."

"OK, OK, you got me," Henry said. "I twisted my ankle when I got off my lift."

"When?" Mike asked.

"About four or five days ago, I guess," Henry replied.

"And you didn't report it? You know better than that," Mike said.

"I'm sorry, it's just, well, I'm afraid to go near a doctor's office or hospital right now," Henry said. "I'm afraid I'll get COVID if I go."

"Honestly, I'm scared to death of COVID, Mike," Henry continued. "And people go to the doctor's when they're sick, right?"

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



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

#### Reader Responses

##### 1 Sharon Collins, Safety Manager, Wilmad Lab Glass, Vineland, NJ

*What Sharon would do:* I actually had an employee who reported a minor injury, and who wished not to be sent to a medical facility at the very beginning of the pandemic.

I provided first aid and had her write up an incident report.

The injury ended up being very minor, but initially there was a concern that she might have a splinter of glass still in the wound.

She was very adamant about not going into any medical facility or emergency room at the time.

We made a plan that she would keep an eye on the injury overnight and if there were any signs of complications or glass remaining she would then go to our Urgent Care Provider.

*Reason:* The injury was reported, documented signed, and dated leaving both the facility and the employee with the flexibility to manage the injury as needed.

##### 2 Joseph Wickenhauser, Safety and Security Systems Leader, Wieland Group, Godfrey, IL

*What Joseph would do:* I would emphasize with Henry that his ankle could be more seriously damaged than he thinks and that without further evaluation, this could turn into a life-long problem.

*Reason:* COVID tests are readily available today, so I would suggest he go to a clinic, follow all of the CDC guidelines, then get tested. In the end, you can't force an employee to seek treatment, but you can take him off the job until a medical evaluation has been conducted if you feel it's not safe for him to work.

#### OUTSIDE THE LINES

##### ■ WHEN IT'S OK YOUR FATHER 'SMELT OF ELDERBERRIES'

It's a classic scene from "Monty Python and the Holy Grail." King Arthur stands below a castle's ramparts as a French warrior taunts him, saying, "Your mother was a hamster and your father smelt of elderberries!"

In 2020, however, that is no longer an insult as the humble elderberry – a fruit rumored to boost the immune system – is in high demand to fight COVID-19 and influenza.

Trials have shown syrup made from the berry could help treat influenza, and "some doctors say elderberries could also aid recovery during respiratory virus infections, including the coronavirus, although more studies need to be done," according to Reuters.

And while the elderberry is useful in fighting infections, doctors say it can't kill the coronavirus.

#### Did you know ...

**Train workers how to properly use protective equipment and clothing**



Workers should be **trained** how to **put on, wear, remove and dispose of or clean** PPE they're expected to use on the job.

Source: OSHA

While some workers may come to the job with some familiarity with PPE, most do not. And even those familiar with the equipment may not know best practices at your facility.

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

# Safety

## COMPLIANCE ALERT™

Get more online:

- Training Shops
- Safety Checklists
- Scenario Responses



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

January 18, 2021

### WHAT'S ONLINE

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

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



#### Training Shop

Arc flash



#### Checklist

Scaffolding in construction



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

### WHAT'S INSIDE

#### 2 Sharpen Your Judgment

Employee's fault safety plan wasn't followed?

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Are leading indicator surveys accurate?

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Don't let audits be turned against you

#### 6 Safety Regs Update

OSHA reg agenda: Changes may come with new administration

#### 8 What Would You Do?

Mike's crew is playing practical jokes, but are they going too far?

## COVID-19 vaccination incoming: Can you make it mandatory?

### ■ You may want to 'strongly encourage' instead

COVID-19 vaccinations are starting to get rolled out, meaning it's time for employers to consider what their vaccination policies will be. Can you mandate employees get vaccinated?

The short answer is, yes, however, in many cases you may be better off strongly encouraging workers to get the shots.

Here's why:

#### Accommodations

Employees may request exemptions from a vaccination for religious reasons.

The Equal Employment Opportunity Commission (EEOC)

says employers must reasonably accommodate an employee's "sincerely held religious beliefs ... unless accommodation would impose an undue hardship on business operations."

An undue hardship includes impairing workplace safety, according to employment law firm Littler.

Courts have helped define what is an undue hardship.

In *Robinson v. Children's Hospital*, a court found that exempting an employee from a mandatory vaccination would have posed an undue hardship because "it would

(Please see COVID vaccination ... on Page 2)

### RESEARCH REPORT

## COVID presumptions cover less than 10% of workers

Workers' compensation presumptions for COVID-19 in Alaska, Arkansas, Indiana, Kentucky, Minnesota and Missouri cover less than 10% of each state's workers, according to reports from the Workers' Compensation Research Institute (WCRI).

The WCRI reports use data from the U.S. Bureau of Labor Statistics Occupational Employment Statistics program to estimate the number of workers covered in each state.

Out of the states studied so far, WCRI estimates:

- Alaska's presumption covers 6.4% of the state's 317,090 covered workers.
- Arkansas' presumption covers 6.7% of 1.22 million workers.
- Indiana's presumption covers about 8% of 3.1 million workers.
- Kentucky's presumption covers

8.6% of 1.91 million workers.

- Minnesota's presumption covers 5.5% of 2.9 million workers.
- Missouri's presumption covers 1.6% of 2.8 million workers.

#### Detailed demographic breakdown

Presumptions in these states cover healthcare workers and first responders and each report also breaks down, for example:

- the number and type of worker in the state
- how many of them are covered, and
- the number most at risk of contracting COVID-19 at work.

Kentucky's presumption covers grocery store workers and other frontline workers in addition to healthcare workers and first responders, and that information is broken down in the same manner.



# INSURANCE FRAUD

## CRIMINAL CHARGES

### Owner charged in \$4M comp scheme

Judy Hein, owner of Cal Roofing Inc., was arraigned Nov. 17 on five felony counts of insurance fraud after allegedly underreporting payroll by more than \$4 million, causing the California State Compensation Insurance Fund to lose more than \$2 million.

Investigators discovered internet searches that revealed the number of roofing projects and revenue for the business did not match Cal Roofing's stated number of employees or estimated annual premium.

#### Big discrepancies

Wage information from the state's Employment Development Department (EDD) for the company was compared to wage information in State Fund policy audits, revealing large discrepancies.

Hein was found responsible for filing the fraudulent payroll reports, and she also signed the accurately recorded EDD reports, which revealed the underreported payroll to State Fund.

According to the audit results and payroll reports with State Fund, Cal Roofing showed a payroll of \$831,788 from 2013 through 2018, but reports and bank records filed with EDD showed a payroll of \$4,948,114.

The payroll was underreported by \$4,116,326, resulting in an estimated loss of \$2,171,330 in unpaid insurance premiums to State Fund.

### COVID vaccination ...

(continued from Page 1)

have increased the risk of transmitting influenza to its already vulnerable patient population."

This and similar court decisions have resulted in a higher likelihood of mandatory vaccine policies at healthcare facilities compared to other types of businesses.

#### What to consider

Employment law firm Ogletree Deakins suggests employers take the following steps to prepare for the arrival of a Food and Drug Administration-approved COVID-19 vaccine:

- Consider whether a mandatory policy is really necessary, or whether you'd be better off strongly encouraging employees to get a COVID-19 vaccine
- Consider confining a mandatory vaccine policy to high-risk locales, departments or worksites
- Prepare to review numerous requests for accommodations
- Find out if it's possible to provide the vaccinations at no or little cost to the employee at a convenient location during normal working hours
- Plan to negotiate with any unions regarding the policy
- Review state workers' comp laws and your current insurance policy regarding ramifications of adverse employee physical reactions to the vaccine, and
- Watch for new laws, regulations and guidance from federal, state and local authorities.

## 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.*

### ■ EMPLOYEE'S FAULT SAFETY PLAN WASN'T FOLLOWED?

Safety Manager Pete Travers was power walking with his teenage daughters after work in his latest effort to lose weight and get fit.

"So, the giant gorilla climbs the skyscraper and starts swatting at the airplanes," he said, explaining a scene from one of his favorite films.

When he took his next step, a popping sensation in his right calf and sudden pain interrupted his story.

As his daughters helped him hobble back to the car, his cell phone rang.

"Pete, do you have a moment?" Attorney John Jenkins asked.

#### Plan was ignored

"OSHA is citing us," John continued. "Something about no fall protection at a worksite, I believe."

"We had a crew working on a roof with a low slope," Pete said. "The site-specific safety plan required a safety monitor along with warning lines and fall protection for anyone working near the roof's edge."

"The citation says there was none of that, other than a supervisor acting as the safety monitor," John said.

"That supervisor was in charge of the job, and he seems to have largely ignored what was outlined in the safety plan," Pete replied. "I'm not sure why he decided to do things the way he did."

"Then this is a clear case of unpreventable employee misconduct," John said. "We can fight this."

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

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

## Safety COMPLIANCE ALERT

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## WHAT'S COMING

### RESEARCH

## Are leading indicator surveys accurate?

■ REPORT SAYS SAFETY SURVEYS IN CONSTRUCTION ARE RELIABLE

Surveys regarding injury and illness leading indicators are used frequently in the construction industry for contract bidding purposes, but are they really accurate? A new research report says they are.

Because the effectiveness of such surveys had never been proven, the National Institute for Occupational Safety and Health (NIOSH)-funded Center for Construction Research and Training supported the research.

Researchers found higher survey scores of leading indicators were linked to worksites with a greater safety climate and lower injury rates, according to a story in NIOSH's December 2020 newsletter.

Construction sites and projects appeared more critical in increasing safety than specific subcontracting companies.

Results suggest the importance of safety for the overall construction project and its worksite as both relate to workers "perhaps somewhat independent of the individual

subcontractor level."

The research was conducted by researchers at Northeastern University in Boston as part of a larger project called Assessment of Contractor Safety (ACES).

Researchers designed and tested a 63-item organizational survey assessing subcontractors' leading indicators of safety performance, which was filled out by 43 subcontractors on 24 construction sites.

At the same time, they conducted a survey of 1,426 workers on those same sites and recorded injury rates for the duration of each project.

### Worksites, not companies

At the worksite level, higher average ACES scores were associated with higher worker safety climate scores and lower rates of injury involving days away.

However, within subcontracting companies, no associations were observed between ACES scores and worker safety climate scores and injuries.

The study appeared in the *American Journal of Industrial Medicine*.

## TRENDS TO WATCH

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

### ■ GUIDANCE FAQ ISSUED ON NEW COVID STANDARD

Cal/OSHA recently issued its first guidance document regarding California's new COVID-19 temporary emergency standard.

The document is a frequently asked questions (FAQ) page on the Department of Industrial Relations website.

Questions and answers cover everything from the standard's effective date to addressing COVID-19 cases in the workplace to best practices for communicating to employees.

The standard went into effect on Nov. 30, and the FAQ was posted a day later.

### ■ BOOKKEEPER CHARGED IN \$100K COMP FRAUD SCHEME

The bookkeeper for a Massachusetts tree removal and landscaping company was charged in a \$100,000 workers' compensation fraud scheme for allegedly making false statements to the company's insurance company.

Barbara Marsan was charged with five counts of workers' comp insurance fraud, four counts of larceny over \$250 and one count of larceny over \$1,200 for allegedly lying to the insurer of Alvelo Enterprises.

Marsan is accused of telling the insurer Alvelo engaged primarily in landscaping work while the majority of the company's actual work is tree removal and pruning services, according to *The Salem News*.

Tree removal and pruning are considered higher risk than landscaping so carry a higher insurance premium.

This allowed the company to avoid paying \$100,575 in insurance premiums between 2014 and 2018.

Marsan will be arraigned, but a date has not been scheduled at this time.

### COURT DECISION

## Case dismissed: Meat-slicer is not a power press

An injured deli worker's lawsuit against her former employer over an unguarded meat-slicing machine won't be moving forward after a California appeals court upheld a lower court decision dismissing the case.

The court said the machine did not fit the definition of an "unguarded power press" under the state's labor code, so it upheld the previous decision.

Tatiana Zagorovskaya was a deli clerk at a Super King Market owned by B&V Enterprises, and on Feb. 22, 2016, she injured her fingers while cutting salami on a meat-slicing machine.

She wasn't using a hand guard or wearing protective gloves because Super King "required employees to cut meats at an angle, which precluded

using a hand guard," according to the appeals court's unpublished decision.

### No triable issue of facts

Zagorovskaya filed a lawsuit against B&V for failure to provide safe working conditions, and a trial court dismissed the case because she failed to prove the allegations.

On appeal, she argued she was due civil damages because the meat-slicer fell under Cal/OSHA's definition of a power press, but the appeals court disagreed.

The definition states a power press is "any material-forming machine that utilizes a die which is designed for use in the manufacture of other products," and the meat-slicer doesn't match that description according to the court.

## WHO GOT FINED – AND WHY

### Roundup of most recent OSHA citations

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

#### Employee killed working under construction vehicle

Indiana OSHA cited a paving company after a worker was killed when a construction vehicle fell on him.

The worker had the vehicle – a Blaw Knox road widener – propped up with a single jack and was working under it when the incident occurred.

A local fire chief said the jack may have failed, according to *The Herald Bulletin*.

Inspectors found the worker used only a 20-ton jack to support the heavy piece of equipment, but the jack's manual called for other supports to be used immediately after lifting.

**Fine:** \$9,500

**Company:** E & B Paving Incorporated, Anderson, IN

**Business:** Highway and street construction

**Reasons for fine:**

*Two serious violations for failure to:*

- provide employment free from recognized struck-by hazards likely to cause death or serious physical harm
- ensure workers used eye protection while repairing vehicles

#### Company hit with \$222K fine for LO/TO violations

An Illinois pasta manufacturer was cited for one willful, one repeat and one serious violation of OSHA's lockout/tagout standard following an inspection conducted under the National Emphasis Program on Amputations.

The company had been the subject of an inspection in 2015 after a worker's arm became trapped in an industrial mixer.

Firefighters worked for 45 minutes to cut the machine apart to free the man, who was then flown by helicopter to a hospital, according to the *Chicago Tribune*.

**Fine:** \$222,648

**Company:** Rana Meal Solutions,

Bartlett, IL

**Business:** Perishable prepared food manufacturing

**Reasons for fine:**

*One willful violation for failure to:*

- ensure lockout/tagout procedures were followed in proper sequence

*One repeat violation for failure to:*

- train authorized employees in recognition of hazardous energy sources, type and magnitude of energy in workplace and methods for energy isolation

*One serious violation for failure to:*

- conduct periodic inspections of energy control procedures

#### Confidential complaint leads to fine for contractor

An Oregon-based general contractor was cited by the state's OSHA for failing to protect workers from fall hazards following a confidential complaint.

The citation stems from inspections at residential worksites in Sutherlin, Winston and Roseburg, OR, revealing the company left employees in danger of potentially falling at least 13 feet.

Inspectors found a repeat violation for failing to ensure employees were protected from falling when working 6 feet or more above a lower level along with four serious violations, according to the *Insurance Journal*.

**Fine:** \$38,390

**Company:** Mid Oregon Builders LLC, Sutherlin, OR

**Business:** New single-family housing construction

**Reasons for fine:**

*One repeat violation for failure to:*

- provide fall protection systems for employees exposed to falls of 6 feet or more to lower levels

*Four serious violations, including failure to:*

- train employees in use of correct procedures for erecting, maintaining, disassembling and inspecting fall protection systems
- enter recordable injury or illness on OSHA 300 Log
- provide records to government officials within four business hours

### WORKERS' COMP DECISIONS

#### No memory of what caused head injury: Benefits?

A security guard fell and hit her head while on the job, but she has no recollection of what caused the injury. Can she collect benefits?

**What happened:** The guard went on a patrol and returned distraught, saying she'd fallen and hit her head. Her hard hat was damaged, but she seemed unhurt. She was later diagnosed with post-concussive syndrome.

**Company's reaction:** Your fall was idiopathic and didn't arise out of your work, so we don't have to pay.

**Decision:** She may be able to collect. The court said she could pursue her claim since there was no evidence of what exactly happened to cause her head injury.

**Cite:** *Dargin v. XL Insurance of America*, Montana Workers' Compensation Court, No. 2019-4749, 5/26/20.

#### Can she get benefits from having a stroke at work?

A janitor whose duties involved lifting heavy trash cans had a stroke at work. Can she collect?

**What happened:** The janitor, who was required to empty trash cans full of books and paper, had a history of hypertension and diabetes. She had a stroke at work, leaving her permanently unable to use her left hand and arm.

**Company's reaction:** The stroke you suffered was due to a pre-existing condition, not your job.

**Decision:** She could collect. The court found her job duties could have aggravated her hypertension resulting in the stroke.

**Cite:** *Ramos v. District of Columbia Department of Employment Services*, District of Columbia Court of Appeals, No. 19-AA-335, 5/28/20.

# WHAT'S WORKED FOR OTHER COMPANIES

## REAL PROBLEMS, REAL SOLUTIONS

### Don't let audits be turned against you

Audit documents are often seen as a shield that shows you're compliant and keeps you from getting cited.

At the same time, there's a lot of potentially incriminating information included in these audits, and if you don't do them in a proper manner they can be used against you.

If OSHA or another regulatory agency gets a hold of an audit, and the document isn't protected in some way, then it can be used like a sword against you and your employer.

And safety professionals have their fingerprints all over these audit reports.

#### Report led to more violations

Accident investigations and audits of that nature – which OSHA could use in court – can be ticking time bombs because if you're being very robust in your analysis, you're going to be admitting fault and violations.

I had a case where a safety professional did their whole fatality investigation without legal counsel – they thought they had a good relationship with the agency – and they were shocked when they got \$150,000 in penalties. I was retained and they handed over their accident investigation report to me.

The safety professional listed five standards that were violated, but OSHA only initially cited them for three.

Good news, right? Except we had to turn over that accident investigation report and they were able to write two more citations because it was considered an admission of the violations.

Be careful how you write things that could be discoverable in court.

With hazard and whistleblower investigations, if you're relying on the fact you're doing your own internal investigations as a defense, those reports become discoverable in court, so don't think you can keep those private if you're planning to try to utilize them as factors in your defense.

#### Create privileged documents

That's why you need to create privileged documents that don't have

to be turned over to an agency like OSHA or a tort attorney in a negligence suit.

In-house inspections generally aren't privileged and are typically viewed by the courts as business records prepared in the normal and customary course of business rather than as an audit prepared in anticipation of litigation, which is the hook for something to be privileged.

Anything an attorney writes up, whether it's an audit report or a letter summarizing an audit, is totally privileged.

But if you share these privileged audits with hourly workers, union representatives, your insurance company or even an expert witness, you've dissolved that privilege.

You have to be thinking in advance what is going to be the end use of the

### Think who the audience will be.

audit, and who its ultimate audience is going to be.

One way to keep control of these documents is to keep them within a specific group of senior management officials.

I've gone so far in some cases as numbering the copies so we know who each numbered copy went to.

Think about keeping them on a thumb drive rather than putting them on a server that could be accessed by anybody with a password.

Also keep in mind photos, videos and audio recordings cannot be privileged, so keep them in a separate package unless you want the entire report to be discoverable in court.

*(Adele Abrams, President, Law Offices of Adele L. Abrams, Beltsville, MD, at ASSP's Safety 2020)*

## TRAINING TIPS

### 'Why do we need to have an emergency drill today?'

Emergency evacuation drills are often not taken seriously by employees even though they're done to ensure worker safety.

Employees need to know a disorganized evacuation can result in confusion, injury, property damage – and even death.

And employees need to remember they have to take steps to keep themselves safe in the event of an emergency.

While employers are required by OSHA to have an emergency action plan, workers should:

- become familiar with the company's evacuation plan
- know the pathway to at least two emergency exits from every room or area in the building
- recognize and know the sound or signal for fire/evacuation alarms
- register in advance with the safety manager if they have a disability and will need assistance
- know where the fire alarms are located and how to use them
- never block emergency exits or exit routes with storage materials, and
- report damaged or malfunctioning fire/evacuation alarms.

For more, see our training shop on Emergency Evacuations on our website.

### What workers are required to know about their PPE

If employees use PPE, they need to be trained on it first.

OSHA says they need to know:

- When it is necessary
- What kind is necessary
- How to put it on and remove it
- The limitations of the equipment
- How to care for, maintain and dispose of the equipment.



## SAFETY REGS UPDATE

### UPCOMING RULES

## OSHA reg agenda: Changes may come with new administration

OSHA's fall regulatory agenda was released Dec. 9 as part of the overall plan rolled out by the White House Office of Management and Budget, but with the incoming Biden administration, things could change.

There are 21 items on OSHA's Fall 2020 Rule List with three in the final rule stage and 14 listed as "proposed."

However, this new administration will have different priorities, so whether and how any of these will move forward is uncertain.

### Final rules

- Discrimination Against Employees Exercising Rights Under the Williams-Steiger Occupational Safety and Health Act of 1970
- Procedures for Handling of Retaliation Complaints Under the Whistleblower Protection Statutes
- Procedures for the Handling of Retaliation Complaints Under the Taxpayer First Act

### Proposed rules

- Mechanical Power Presses 29 CFR 1910.217
- Occupational Exposure to Crystalline Silica: Revisions to Medical Surveillance Provisions for Medical Removal Protection

- Walking Working Surfaces
- Powered Industrial Trucks Design Standard Update
- Personal Protective Equipment in Construction
- Drug Testing Program and Safety Incentives Rule
- Welding in Construction Confined Spaces
- Occupational Exposure to Crystalline Silica; Revisions to Table 1 in the Standard for Construction
- Tree Care Standard
- Lock-Out/Tag-Out Update
- Powered Industrial Trucks
- Update to the Hazard Communication Standard
- Communication Tower Safety
- Amendments to the Cranes and Derricks in Construction Standard

this recent update adds 29 more.

As with previous versions of this list released by OSHA, healthcare facilities make up the majority of businesses cited.

### Review Commission saw fewer appeals in FY 2020

Thanks to COVID-19, there were fewer attempts to appeal OSHA citations in fiscal year 2020, according to a report from the Occupational Safety and Health Review Commission.

Employers filed 1,845 appeals with the OSHRC, down 8.5% from the 2,017 filed in FY 2019.

The decrease is attributed "to the circumstances created by the National Emergency declared March 13, 2020, due to the coronavirus."

OSHA's inspection numbers were also down for the year, according to the report, dropping to 21,589 from FY 2019's 33,401, a 35% drop.

Along with the new cases, there were 1,248 cases carried over from 2019 for a total of 3,093 cases.

A total of 1,834 of those cases were resolved, leaving 1,259 cases to roll over into FY 2021.

### COVID fines issued by federal OSHA break \$3M

Through Nov. 12, 2020, federal OSHA has issued a total of 232 coronavirus-related citations, with fines totaling \$3,148,452.

OSHA previously announced citations from 203 inspections, and

### SHARPEN YOUR JUDGMENT – THE DECISION

(see case on Page 2)

No, the company lost. The court found the company violated its own rules and OSHA's fall protection standard.

The company claimed the size of the roof didn't require the use of a warning line, despite the fact its plan clearly called for one.

OSHA provided the inspector's measurements of the roof, proving it was large enough to warrant the use of a warning line or other fall protection.

Because of that, the court found there was sufficient evidence proving the company violated both OSHA's standard and the company's own site-specific safety plan.

Further, there was no evidence the supervisor or any of the workers were disciplined for not following the plan.

And because the supervisor represented company management at the worksite, the court said unpreventable employee misconduct was not a legitimate defense.

### ■ ANALYSIS: PLANS WORTHLESS IF NOT FOLLOWED

Obviously, safety plans are integral to any safety program, but just having one isn't enough to ensure OSHA compliance or that employees are actually safe.

Building a good safety culture while ensuring the rules outlined in the safety plan are followed to the letter is equally important. And if rules aren't followed, there needs to be documented disciplinary action to prove the plan is taken seriously.

**Cite:** *Secretary of Labor v. Latite Roofing & Sheet Metal*, Occupational Safety and Health Review Commission, No. 18-1845, 9/28/20. 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).*

#### CDC GUIDANCE

On Nov. 16, the CDC updated its prior partial exemption of the 14-day quarantine guidance for critical infrastructure workers with the caveat that this should be done only as a last resort.

The clarified guidance states, "This option should be used as a last resort and only in limited circumstances, such as when cessation of operation of a facility may cause serious harm or danger to public health or safety."

According to the CDC, a 14-day self-quarantine "is still the safest approach to limit the spread of COVID-19 and reduce the chance of an outbreak among the workforce" because "permitting potentially exposed employees to continue to work carries considerable risk to other workers."

So use of exposed workers "should not be the first or most appropriate option."

#### GAS CYLINDERS

Propane cylinders can be kept in service longer thanks to a final rule by the Department of Transportation's (DOT) Pipeline and Hazardous Materials Safety Administration.

The final rule authorizes 12-year initial and subsequent requalification periods for volumetric expansion testing and a 12-year initial requalification period for proof pressure testing.

To qualify, cylinders must be:

- made in conformance with DOT specification 4B, 4BA, 4BW or 4E
  - protected by a corrosion-resistant coating
  - used only for non-corrosive gas, and
  - free of corroding components.
- Subsequent requalification

periods for proof pressure testing remain set at 10 years.

Info: 85 FR 68,790

#### COURT DECISION

Safety citations against the owner of an Oklahoma oil refinery – the result of a 2012 boiler explosion that killed two workers – were upheld by an appeals court.

The U.S. 10th Circuit Court of Appeals affirmed the citations alleging violations of OSHA's Process Safety Management standard, along with a fine of \$58,000.

In September 2012, a boiler at the Wynnewood Refining Co. was improperly started by workers who allowed too much natural gas to enter the firebox, which burns gas to heat the boiler.

One employee died at the scene, the other died from injuries sustained in the blast 28 days later, according to an *OK Energy Today* story.

The boiler did not contain any highly hazardous chemicals, but it was connected to two other parts of the refinery that did, according to the appeals court's Oct. 27, 2020, decision.

OSHA investigated the incident and issued multiple repeat and serious violations and a \$281,100 fine.

The refinery argued the boiler wasn't a covered process under the PSM Standard, but an administrative law judge affirmed the citations and fine, finding the standard applied.

Wynnewood filed an appeal with the Occupational Safety and Health Review Commission, which affirmed the judge's decision.

On appeal to the 10th Circuit, Wynnewood continued to argue the PSM standard only applies to processes involving "a threshold amount of highly hazardous chemicals."

The appeals court affirmed the OSHRC decision because of the boiler's proximity to the other parts of the process since it was "located such that a highly hazardous chemical could be involved in a potential release."

#### WHERE TO GET HELP

##### ■ RENAMED SAFETY PODCAST TAKES PRACTICAL APPROACH

The American Society of Safety Professionals (ASSP) recently posted the 50th episode of its safety podcast series, which has been renamed and enhanced to include a broader range of occupational safety and health topics.

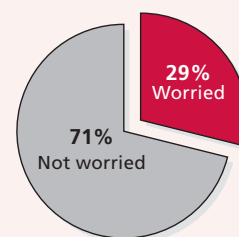
ASSP's safety podcast series – now known as "The Case for Safety" – debuted in September 2018 and has almost 100,000 downloads, according to an ASSP news release.

New episodes are posted monthly and will now feature practical content going beyond the podcast's previous focus on safety standards and technical publications.

"The Case for Safety" episodes are free to listen to or download from the ASSP website, and listeners can also subscribe wherever they get their podcasts.

#### What safety officers told us

How many employees are concerned about their co-workers not taking COVID-19 safety rules seriously?



Source: The Conference Board's "Employee readiness reopening survey"

While employees were more concerned about getting COVID or exposing their families to it, their fifth greatest concern was co-workers failing to follow guidelines.

*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?

### Mike's crew is playing practical jokes on one worker, but are they going too far?

#### The Scenario

"What in the – ? Why?" Manager Mike Kelly asked, trying to make sense of the sight before him.

That sight being a forklift wrapped, mummy-like, from mast to counterweight in blue shrink wrap.

"I don't know, Mike," Supervisor Ken Dawson said. "There's no good reason for it – just a waste of time and materials."

"Whose lift is it?" Mike asked.

"It's assigned to Chuck Mauer," Ken said. "He reported it."

"Wasn't it Chuck who reported his work gloves were glued to his broom last week?" Mike asked.

"Yup," said Ken. "I think some of the guys are messing with him because he got that promotion."

Supervisor Jack Hall walked up, laughing out loud at the

shrink wrapped spectacle.

"Ah, that's rich," he said with a grin.

#### 'They're just blowin' off steam'

"I remember when I got my promotion, the crew back then did the same thing to me," Jack said.

Ken looked aghast at his fellow supervisor, but didn't say a word.

"It's really not funny, Jack," Mike said. "I think it's an accident waiting to happen, and I'm not sure Chuck appreciates this sort of attention."

"C'mon, Mike, you're taking this too seriously," Jack said. "The guys are just blowin' off a little steam, that's all."

"You're wrong, Jack," Ken said. "This is getting out of hand and someone could get hurt."

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



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

#### Reader Responses

##### 1 Bob Beck, Safety Manager, Reliable Constructors Inc., Mount Dora, FL

*What Bob would do:* First, so far, it's not a safety issue – it appears to be more of an HR issue. Talk with the affected employee. Does he see it as a prank or harassment? That will lead you how to address the pranksters.

*Reason:* Then talk to the pranksters either following the HR harassment policy or by just telling them that it is time to get back to work.

##### 2 Roy Spittle, Safety Manager, Taormina Electrical Inc., Gloucester, MA

*What Roy would do:* Practical jokes of any kind cannot be tolerated on the job. Such actions are safety issues. Childlike pranks, harassment

or practical jokes must be addressed immediately.

*Reason:* All those involved must be called to the office and told in no uncertain terms that these acts must stop. They must also be informed that their actions have been written up and placed in their performance folder. If another incident is reported that shall be entered on the record as a warning and that a third report shall result in termination.

##### 3 Aaron Leff, EH&S Manager, GT Advanced Technologies, Hudson, NH

*What Aaron would do:* These antics are completely unacceptable. Sure, they could be perceived as funny, but they're gradually creating a hostile workplace.

*Reason:* In addition to the negative impact they're having on their recently promoted comrade, they're also wasting company time and property.

#### OUTSIDE THE LINES

##### ■ SOCIAL DISTANCING IN STYLE WITH REALLY BIG BOOTS

As a safety pro, you've heard of steel-toed safety shoes and boots, but how about protective footwear to help prevent the coronavirus?

A Romanian cobbler has done just that by creating a new line of huge winter boots meant to create social distance.

The boots are European size 75 – an American size 10 equates to a European size 43 – so, yeah, they're really big.

Grigore Lup said he started making them when he noticed people standing too close together and ignoring social distancing rules.

"Two people facing each other in his elongated footwear would be forced to stand just under two meters apart," according to Reuters.

And they absolutely do not look like fancy clown shoes.

#### Did you know ...

**Routinely clean vehicle door handles, steering wheels and key fobs**



OSHA recommends **cleaning** commonly-touched **surfaces** of **company vehicles** regularly to help **prevent** the spread of **COVID-19**.

Source: OSHA

While a lot of guidance focuses on cleaning commonly-touched surfaces in a workplace, those same surfaces in vehicles are just as likely to be contaminated.

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