

## WHAT'S INSIDE

- 2 Sharpen Your Judgment**  
Who was responsible for inspecting the scaffold?
- 3 What's Coming**  
Response at meat plants under scrutiny
- 4 Who Got Fined – And Why**  
Worker struck, killed by pump's floating ball
- 5 What's Worked for Other Companies**  
Proactively developed outbreak playbook
- 6 Safety Regs Update**  
OSHA issues new COVID guidance, says ETS isn't off table
- 8 What Would You Do?**  
Worker denies he may be dealing with mental health problems

## SAFETY NEWS ALERT

**Safety News Alert**, part of the Catalyst Media Network, keeps safety pros up to date on the latest OSHA news, safety training ideas, workers' comp cases and injury cases from other companies. Read what more than 334,000 safety pros turn to regularly for occupational safety information. Safety News Alert's editorial staff is led by veteran Editor-in-Chief Fred Hosier.

## Procedure led to catastrophe: How familiarity bred contempt

### ■ *Complacency in policies led to fatal incident*

Safety professionals know about procedures – you eat, breathe and probably dream about them – but as English poet Geoffrey Chaucer once said, “Familiarity breeds contempt.”

In other words, a person can get so caught up in procedures that they overlook an important component or aspect of that procedure, which could eventually lead to trouble.

A National Transportation Safety Board (NTSB) report on a residential natural gas explosion that killed one person and injured four others serves as an illustration of this fact.

On Feb. 23, 2018, a natural gas

explosion occurred at 3534 Espanola Drive in Dallas injuring all five occupants, one fatally, according to the NTSB report.

Investigators found a through-wall crack in the 71-year-old natural gas main that served this and other residences and positive gas measurements leading from the crack to this specific residence.

### **Inadequate investigation**

In the two days before the explosion, two other gas-related incidents occurred on the same block at houses served by the same natural

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

## NEW ADMINISTRATION

### **Appointee gives Biden team ability to shape OSHA**

President Joe Biden appointed Jim Frederick to OSHA's No. 2 leadership position, giving the administration the ability to put Biden's vision of OSHA into place ... perhaps quickly.

Frederick was named the new Deputy Assistant Secretary for OSHA Jan. 20, and his appointment allows the new administration to pursue its agenda on day one.

The National Safety Council (NSC) and United Steel Workers (USW) were both quick to praise the appointment.

### **Praise for Frederick**

The NSC congratulated Frederick – who worked for the NSC after its November 2020 acquisition of ORC HSE Strategies – on his appointment, saying, “(Frederick) will bring a wealth of experience and knowledge

to the post.

“His dedication to protecting workers makes him a superb choice to lead OSHA at a critical moment,” according to an NSC news release.

Frederick also served as assistant director and principal investigator for the USW's health, safety and environment department where “he provided oral and written testimony to congressional panels and federal agencies that led to progress on countless workplace safety issues, including workplace violence, beryllium, silica, hazard communication and ergonomics.”

With the No. 2 political appointment filled, OSHA can now pursue a emergency temporary standard for the coronavirus in the workplace.

The No. 1 head of OSHA requires Senate approval.

## REPORT

### Temps face barriers to reporting injuries

Temporary construction workers – who are at an increased risk of safety and health hazards than full time construction employees – face barriers to reporting near misses and injuries, according to a new study.

National Institute for Occupational Safety and Health researchers spoke with 43 temporary construction workers through six group discussions on safety and health risks associated with near misses and injuries.

#### Fear of losing job

These group discussions revealed temporary workers “made a clear distinction between near misses and injuries” and that “they blamed themselves and co-workers for the incidents, believing “workers had the greatest ability to protect themselves.”

The temporary workers said a lack of safety and health priorities and policies, such as a failure to enforce rules, added to the risk of injury, and stated they would only report near

misses and injuries if an incident was severe enough to warrant it, out of fear of losing their job.

They told researchers they “aimed to prevent injuries and near misses by connecting with more seasoned workers at new jobsites and ... observing their safety behaviors.”

NIOSH says more research is needed to confirm these findings.

#### Familiarity ...

(continued from Page 1)

gas main.

Atmos Energy Corporation, the owner of the natural gas main, began investigating, dedicating “significant resources to its response” and finding 13 leaks presenting an existing or probable future hazard.

But the employees sent to investigate didn’t look beyond the initial findings, due to inadequate procedures for performing gas leak investigations.

This allowed gas from the cracked main to continue to go undetected, leading to the fatal explosion of Feb. 23.

NTSB investigators found Atmos Energy’s integrity management program was “generally consistent with regulatory requirements and industry practice,” but still failed to adequately address the risk.

The earlier investigation, which used inadequate procedures, delayed a response from regulatory authorities that may have prevented the fatal explosion.

#### NTSB calls for revisions

Following the Feb. 23 incident, further investigation using proper procedures revealed 26 more leaks presenting an existing or probable future hazard in the area around the explosion and an additional 740 leaks in northwest Dallas.

The NTSB report recommended Atmos Energy revise its policies and procedures addressing gas leak investigations to include alternate safe responses, including evacuation, if necessary.

## 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.

### WHO WAS RESPONSIBLE FOR INSPECTING THE SCAFFOLD?

“I know you’re upset, Pete,” Attorney John Jenkins said. “A death is always terrible. But we have to go over this.”

“Alright, John,” Pete said. “But our workers were on that jobsite – they were exposed to the same fall hazard that killed that man.”

“I know this is a tough thing to discuss, but OSHA is citing us for this, so we need to have our facts straight.” John said.

#### Other contractors were using it

“Our employees were working on a multi-employer jobsite,” Pete said. “We were using a scaffold that was erected by another company, but our safety plan required one of our supervisors to perform an inspection before our employees used it.”

“But the other contractors were also using this same scaffold, correct?” John asked.

“Yes, that’s correct,” Pete replied. “Anyway, when the scaffold was built it had guardrails the whole way around its top level, but at some point two sections of guardrail were removed for an unknown reason.”

“Our supervisor inspected the scaffold on the day of the incident, but he only inspected the area where our employees would be working,” Pete explained.

“Which is all that was required,” John said. “OSHA doesn’t have a case because we inspected what we were required to inspect for our employees.”

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

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

## SAFETY COMPLIANCE Alert

EDITOR-IN-CHIEF: MERRIELL MOYER  
mmoyer@SafetyNewsAlert.com

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

Safety Compliance Alert (ISSN 1077-9787), March 1, 2021, Vol. 27 No. 613, is published semi-monthly except once in December (23 times a year)

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

Copyright © 2021 Safety | News Alert. Please respect our copyright: Reproduction of this material is prohibited without prior permission. All rights reserved in all countries.

## OSHA & THE PANDEMIC

### Response at meat plants under scrutiny

■ IMPACT OF COVID-19 ON MEATPACKING UNDER INVESTIGATION

Following a report that identified “gaps in OSHA’s oversight and tracking of its adapted enforcement methods” during the pandemic, a U.S. House subcommittee is looking into how that impacted the meatpacking industry.

The Select Subcommittee on the Coronavirus Crisis is looking into whether OSHA failed to adequately carry out its responsibility for enforcing worker safety regulations at meatpacking plants.

In a letter to interim OSHA administrator James Frederick, it’s noted nearly 54,000 workers at 569 meatpacking plants in the U.S. have tested positive for the coronavirus, and at least 270 have died.

The letter notes at least 45 facilities owned by JBS, Smithfield Foods, Tyson Foods and Cargill have had 50 or more confirmed COVID-19 cases.

#### OSHA failure?

The subcommittee’s letter contends OSHA failed to protect meatpacking

workers during the pandemic.

“A swift and forceful response from OSHA could have led meatpacking companies to adopt stronger safety measures, preventing outbreaks and saving lives,” the letter states.

What should OSHA have done differently? The letter suggests higher fines related to coronavirus violations.

Example: OSHA cited Smithfield Foods for “failing to protect employees from exposure to the coronavirus.” At least 1,294 Smithfield workers contracted the virus and four died.

The fine issued: \$13,494.

The subcommittee says if OSHA had cited four distinct actions Smithfield failed to take and categorized them as willful, the penalty to the plant could have been \$2.7 million.

The concerns are partially based on the Government Accountability Office’s (GAO) 346-page report on the federal government’s overall response to the pandemic.

The GAO report and subcommittee investigation both put pressure on OSHA to step up its game during the pandemic.

## CRIMINAL CHARGES

### DuPont, manager indicted for fatal chemical incident

Chemical manufacturing company DuPont and a former employee were indicted by a federal grand jury in Texas for the part they played in the 2014 La Porte chemical release that killed four employees.

Kenneth Sandel, a manager who ran the company’s Insecticide Business Unit (IBU), and DuPont representatives were scheduled to appear in court on charges they knowingly violated federal safety regulations and negligently released an extremely hazardous substance.

Allegedly, DuPont engineers and Sandel knowingly failed to implement certain company safety procedures required by federal regulations.

The indictment alleges they planned

“to divert a large volume of methyl mercaptan gas into a waste gas pipe system during the day before and night of the fatal incident.”

#### Ignored safety aspects of plan

Sandel failed to implement “necessary procedures to evaluate safety aspects of that plan,” such as prohibiting workers from “opening the pipe to the atmosphere.”

If convicted, Sandel faces up to five years in prison for the safety violations and an additional year under the negligence charge, along with fines up to \$250,000 for both.

DuPont could be fined \$500,000 or twice the gross gain derived from the offense, whichever is greater.

## TRENDS TO WATCH

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

### ■ VIRGINIA’S PERMANENT COVID RULES OFFICIALLY APPROVED

Permanent COVID-19 workplace rules have officially gone into effect Jan. 28 in Virginia, following Governor Ralph Northam’s approval of the standard.

The standard – which was adopted Jan. 13 by the state’s Department of Labor and Industry’s Safety and Health Codes Board – mandates appropriate PPE, sanitation, social distancing, infectious disease preparedness and response plans, record keeping, training and hazard communications for workplaces in Virginia.

The standard requires:

- all public-facing employees to wear masks
- ready access to hand sanitizer
- regular cleaning of common work spaces
- training employees on COVID-19 safety, and
- developing infectious disease and preparedness response plans.

The permanent regulations also include guidelines for returning to work and communicating about employees who test positive and potential exposures, according to a news release from Governor Northam’s office.

### ■ RETALIATION CASES WILL BE MORE COSTLY IN 2021

Whistleblower retaliation lawsuits in California are going to become more costly for employers in 2021.

The bill, signed into law Sept. 30, 2020, authorizes courts to award attorney’s fees to whistleblowers who win retaliation lawsuits against their employers.

This change is not retroactive, so whistleblower claims made before the bill’s Jan. 1, 2021, effective date will not be entitled to attorney’s fees.

## Roundup of most recent OSHA citations

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

### **Worker struck, killed by pump's floating ball**

An Illinois generator manufacturer was cited after an employee was struck and killed by a hydraulic pump's floating ball.

The worker was using a hydraulic ram with a piston to remove the hub unit of a locomotive generator powered by an electric hydraulic pump.

As the worker was providing hydraulic pressure to the ram cylinder with a remote switch, the ball discharged and struck them in the face and neck, killing them.

**Fine:** \$13,494

**Company:** Kato Engineering, McCook, IL

**Business:** Motor and generator manufacturing

**Reasons for fine:**

*One serious violation for failure to:*

- provide employment free from known struck-by hazards that could cause death or serious physical harm

### **Farm fined more than \$150K for COVID violations**

The Washington Department of Labor & Industries (L&I) fined a fruit grower and processor more than \$150,000 for COVID-19 violations.

These violations are categorized as willful serious for not following state COVID-19 mask and social distancing requirements.

L&I opened the inspection Oct. 14, 2020, after receiving an anonymous complaint about health and safety issues at a company worksite, including a lack of social distancing, according to an L&I news release.

Investigators found:

- numerous workers in different areas not socially distanced or without physical barriers between them
- several workers in the warehouse and the office who were not wearing masks as required, and
- the safety manager said he would

not require any worker to wear a mask.

The violations are considered willful because “the company knew employees were required to wear masks and the employer knowingly did not enforce it.”

An Order and Notice of Immediate Restraint requiring immediate compliance with state COVID-19 rules was issued, and the company came into compliance within a half hour of receiving the notice.

**Fine:** \$156,000

**Company:** Evans Fruit, Yakima, WA

**Business:** Fruit grower and processor

**Reasons for fine:**

*Two willful serious violations for failure to:*

- follow state workplace COVID-19 mask requirements
- follow state workplace social distancing requirements

**Note:** This is the third time “in recent months” the company was cited for COVID safety and health violations, according to L&I.

### **Missing machine guards lead to fine of almost \$13K**

An automotive parts manufacturer was cited by Indiana OSHA for exposing its employees to serious machine-related hazards.

Inspectors found workers were exposed to caught-in hazards at several different machines due to open or missing guards.

**Fine:** \$12,975

**Company:** Suncall America Inc., Richmond, IN

**Business:** Motor vehicle transmission and power train parts manufacturing

**Reasons for fine:**

*Three serious violations for failure to:*

- provide machine guarding to protect operator from point-of-operation, ingoing nip point and rotating part hazards
- guard machines to prevent employees from having parts of their bodies in danger zones during operation
- ensure flexible cords were not used as substitute for fixed wiring of structure

## WORKERS' COMP DECISIONS

### **Can worker get benefits for gradual hearing loss?**

A construction worker filed a claim for work-related hearing loss years after noticing the start of the problem. Can he collect benefits?

**What happened:** The worker suffered hearing loss after years of being exposed to the loud noises of jackhammers and heavy construction equipment. He filed a claim seven years after first noticing the problem once his family observed he was having trouble hearing.

**Company's reaction:** You didn't report the problem right away, and the statute of limitations has run out at this point.

**Decision:** He couldn't collect. While there are exceptions to the statute of limitations for injuries that occur gradually, the worker provided no proof he wasn't already aware of the hearing loss years before filing the claim.

**Cite:** *Potter South East LLC v. Bowling*, TN Supreme Court, No. E2019-01009-SC-R3-WC, 6/2/20.

### **Injured after jumping from burning truck: Benefits?**

A driver aggravated a pre-existing back injury jumping from a burning tractor-trailer. Can she collect?

**What happened:** A tire on the tractor-trailer caught on fire and quickly spread, causing the driver to pull over and jump from the truck.

**Company's reaction:** You jumped from the truck, so the injury is your fault.

**Decision:** She could collect. Her jump from the vehicle was under extraordinary circumstances, was justified and was work-related, the court determined.

**Cite:** *JBS USA v. Labor Commission*, UT Court of Appeals, No. 20190694-CA, 6/4/20.

## REAL PROBLEMS, REAL SOLUTIONS

### Proactively developed outbreak playbook

Because our company had operations in China, we got a good idea what kind of impact the coronavirus was going to have on the safety of our American workforce.

But due to the 24-hour nature of our operations, going to a full remote-work model wasn't possible. Bottom line: Our essential workers needed to be able to come to work for our business to be viable and sustainable.

And of course we have a duty of care to those employees to make sure they're coming into a workplace where they not only feel safe, but also one where they can be productive and thrive.

#### Pandemic best practices

Not only did we create and implement physical distancing, PPE and contact tracing protocols, we also monitored suspected and confirmed employee cases of COVID-19 and flexible shifts so that no two people were in the same area at the same time.

In addition, it was key for our communications team to keep our employees in the loop about our written COVID safety policy with email blasts, plus a special COVID-19 section on our company intranet.

But perhaps one of the most important moves we made was assembling a COVID taskforce comprised of employees from different areas of the company. The taskforce met via daily calls to discuss triaged cases within the company and where they are. That way, we were able to see spikes in cases coming ahead of time and map out how to proceed from an operational standpoint.

Whenever the pandemic ends, we'll be taking a deep dive into what we did right and what we could've done better.

Although there's no playbook that could've completely prepared us for what happened, we've developed a useful working playbook in the event of another pandemic.

*(David O'Connor, vice-president of global security and corporate real estate, Thermo Fisher Scientific, at the National Safety Council State of*

*Response and Future World of Work Virtual Summit)*

### Getting personal about coronavirus vaccinations

It's an unfortunate development in the fight against COVID-19: A significant number of essential workers who have been offered the vaccine turned it down.

For example: In Maryland, only about 58% of doses allocated to nursing home staff and residents were administered.

Vaccine providers and union representatives say the reluctance to receive the vaccine is due to online misinformation and historical mistrust of the healthcare system.

That mistrust comes from two places: difficulty keeping workers safe from the coronavirus early in the pandemic and historical abuses like the Tuskegee syphilis study since many nursing home staffers are Black.

#### One-on-one conversations

What can be done to boost the percentage of workers willing to get vaccinated?

FAQ sheets and similar ways of providing information about the vaccine won't work, according to David Grabowski, a Harvard University health policy professor.

He says conversations with a trusted source are more effective.

An effort was launched to discuss the vaccine with nursing home workers in Washington, DC, one-on-one.

Leaders among facility staffs (not always supervisors) encouraged their peers to get the vaccine.

At one DC nursing home, the percentage of staff getting vaccinated increased from 30% to 80% between initial and second vaccination clinics.

*(Adapted from "Most nursing home workers don't want the vaccine. Here's what facilities are doing about it" in The Washington Post.)*

## TRAINING TIPS

### Pandemic causes increased risk of repetitive strains

The COVID-19 pandemic caused many changes for workers, from work-at-home challenges to difficulties with social distancing for those who have to report to a jobsite.

Repetitive strain injuries were a risk pre-pandemic, but changes in the workplace in response to COVID – new types of PPE, modifications to processes, heavier workloads and a different work pace – could create additional problems, according to the Canadian Centre for Occupational Health and Safety.

These injuries are caused by continued repetition of movements at work that result in painful disorders affecting muscles in the neck, back, chest, shoulders, arms and hands.

Repetitive strain injuries take time to develop, so be aware of telltale signs, such as a painful wrist, joint stiffness in the shoulders or muscle tightness in the neck.

Symptoms like these usually develop gradually and can become irreversible without treatment.

Eliminate the hazard by removing repetitive patterns, automating tasks or rotating assignments evenly between workers.

And develop a prevention program to make sure workers are educated on the signs and symptoms of these injuries.

### Lifting, lifting everywhere: Back safety reminders

Whether it's in the warehouse or in the office, workers always have something to lift, so occasionally reminding them to lift with their legs not with their backs is a good idea.

OSHA says employees should be trained on appropriate lifting techniques and when it is appropriate to seek assistance.

## EMERGENCY STANDARD

### OSHA issues new COVID guidance, says ETS isn't off table

In a Jan. 29 news conference, OSHA announced new, more direct COVID-19 guidance and said an emergency temporary standard (ETS) is still being discussed.

OSHA officials said they feel the new guidance is more direct in calling for employers to take action in protecting workers from COVID than previous guidance from the Trump administration and asks employers to consult employees in creating COVID hazard assessments.

#### Potential ETS

Jim Frederick, Principal Deputy Assistant Secretary for OSHA, stated this is the Biden administration's first steps into providing ongoing guidance on COVID-19 and that the agency "doesn't yet have the outline of what an ETS might look like, should we consider to go there, so that is something we are deliberating about and will be working on."

#### Differences in guidance

According to OSHA Senior Advisor Ann Rosenthal, the new guidance differs from the Trump administration's guidance in several ways, including:

- It doesn't have the pyramid of risk

the Trump administration guidance had because "we think everybody should be protected, not that some workers should be protected more than others."

- The new guidance calls for involving workers in every process of developing and implementing an employer's COVID prevention plan because "workers are the best help in a hazard assessment ... they are the people who know what they're exposed to" and can help find ways to mitigate exposure while still getting the job done.
- There's no language that says an employer "should consider" certain actions, but instead says employers "should do" these things.

---

### Proposed update to Hazard Comm. Standard

OSHA is proposing an update of the Hazard Communication Standard to align with the newer Globally Harmonized System of Classification and Labeling of Chemicals.

The proposed rule is meant to increase worker protections and reduce chemical-related occupational illnesses

and injuries by improving information provided on labels and in Safety Data Sheets of hazardous chemicals.

Modifications would enhance the standard's effectiveness by improving information on hazards so employees are made more aware of exposure to chemical hazards in the workplace.

Other modifications will address implementation issues of the 2012 standard and improve alignment with other federal agencies and Canada.

---

### Plant ordered to protect workers from COVID

A Foster Farms poultry processing plant involved in a coronavirus outbreak that killed nine people was slapped with a preliminary injunction forcing the company to continue providing its workers with protection from COVID-19.

A California court upgraded a Dec. 23 restraining order requiring the company to provide COVID protections to a preliminary injunction.

Now the company must "maintain numerous safety guidelines to protect workers from COVID as the case proceeds."

---

## SHARPEN YOUR JUDGMENT – THE DECISION

(see case on Page 2)

Yes and no. The citation against Pete's company for the day of the incident was dismissed, but another citation for the same missing guardrails on a different day was upheld.

The company claimed it was responsible for inspecting the scaffold only in the areas where its employees were working and only when its employees were working.

OSHA argued the hazard posed by the missing guardrails – which were easily seen from below – was "broad enough to encompass employees of other subcontractors at this multi-employer worksite."

The court found the only relevant employees involved in the citation were those of Pete's company, and evidence proved none of those employees were working on that

section of scaffold on the date the fatal fall occurred. Further, the supervisor documented that he did inspect the areas of scaffold where his employees were working.

The same couldn't be said on another date, however, so the court upheld a second citation for the same violation.

#### ■ ANALYSIS: DOCUMENTING INSPECTIONS

Having a competent person perform an inspection of a jobsite is an important component of a safety plan.

Ensuring the competent person documents their inspection is just as important, as this case illustrates.

Without the supervisor's inspection documents, the court may have decided to uphold both citations.

**Cite:** *Secretary of Labor v. Brady SoCal*, Occupational Safety and Health Review Commission, No. 18-1584, 9/25/20. Dramatized for effect.

## Government notices on workplace safety

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

### CITATIONS

An OSHA official at a Jan. 29 news conference stated the agency will once again be issuing news releases when an employer has been cited for safety and health violations.

Senior Counselor to the Secretary of Labor Patricia Smith stated that the Trump administration policy of not issuing news releases on citations has been revoked.

Whether or not citation documents will be included with the news releases is undetermined at this point, Smith said, but "OSHA will be issuing press releases when they issue citations."

### FATAL CRASH

A train collision that killed two workers and resulted in about \$3 million in damages was caused by the railroad's failure to maintain its railcars and regularly test train brake systems, according to a federal investigation report.

The National Transportation Safety Board (NTSB) determined Jan. 25 that the Oct. 4, 2018, incident was caused by an airbrake failure, which may have been caught and corrected with regular maintenance and testing.

An eastbound Union Pacific Railroad freight train collided with the rear of a stationary freight train at about 55 mph, causing the incident.

The striking train consisted of three leading locomotives and 105 railcars.

Both the engineer and conductor of the striking train were killed and the collision caused \$3.2 million in damage.

NTSB investigators found an air flow restriction in a brake pipe caused the air brake system to fail and the end-of-train device failed to respond to an emergency brake command from the train's engineer.

Despite the engineer's efforts to slow the train, its speed continued to increase as the electronic brake system gave a "no communication" message to the engineer, indicating the emergency brake message wasn't being received.

Further investigation revealed Union Pacific's "failure to maintain its railcars, including regularly performing single railcar air brake tests as required by federal regulations, contributed to the collision," an NTSB news release states.

If the railroad "followed the rules and conducted air brake tests, any defects would likely have been identified and this accident could have been prevented," NTSB Director Robert Hall said in the news release.

### MSHA VIOLATION

A \$120,000 fine was upheld against a Minnesota mining company, but some lesser penalties against two managers were dismissed after the Federal Mine Safety and Health Review Commission found a walkway collapse was not a "flagrant" violation.

The commission found the collapse was the result of the company's reckless disregard, but disagreed with an administrative law judge's assessment of penalties against two individual members of management.

MSHA investigated the incident and fined the company \$130,000 for reckless disregard, unwarrantable failure and reckless flagrant violations for failing to maintain the walkway in good condition and issued a \$69,400 fine for reckless disregard and unwarrantable failure.

An administrative law judge upheld all but the reckless flagrant violation, but assessed individual penalties totaling \$8,000 to two members of the management team who made decisions regarding the walkways.

On appeal, the commission affirmed the reckless disregard and unwarrantable failure for both violations, but said the evidence did not warrant the individual penalties.

## WHERE TO GET HELP

### INTERNATIONAL BEST PRACTICES TO ADDRESS COVID

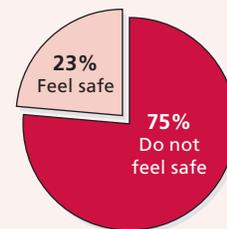
The International Organization for Standardization expedited its standard creation process to release a general guidance standard for addressing COVID-19 in the workplace.

ISO/PAS 45005 brings together international best practice on how to manage the health and safety of employees and stakeholders during the pandemic and is intended to complement any existing national guidelines and regulations, according to an ISO news release.

The standard can be purchased from national ISO members or the ISO Store and has also been made freely available in a read-only format on the ISO website to support global efforts in dealing with the COVID-19 crisis.

## What safety officers told us

Do employees feel safe working in their employer's buildings?



Source: Honeywell's 2020 "Should I go into the office?" survey of 2,000 workers

Many of the remote workers polled for this survey said they'd rather find a new job than return to a workplace that didn't implement necessary safety measures.

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 denies he may be dealing with some mental health problems

### The Scenario

Manager Mike Kelly was walking through Manufacturing on his way to a meeting.

*I swear my life is nothing but one long meeting lately,* Mike thought.

As Mike made his way past workers attending to their machines, one worker stood out to him.

He was standing at the control panel, arms at his sides with his head hanging down, almost as though he was looking intently at the floor.

Curious, Mike walked up onto the platform, but maintained social distancing protocols.

"Are you OK?" Mike asked.

The worker took a deep breath, exhaling slowly before answering.

"I'm -" he began, but stopped. He still hadn't turned to face Mike.

"I'm not sure," he said. "I can't seem to get myself together

this morning."

The worker – Mike recognized him as longtime employee Stan Weathers – turned to face him.

*Was he crying?* Mike wondered.

### 'I'll power through it'

"What's wrong, Stan?" Mike asked gently.

"I don't know, just my allergies acting up, I guess," he replied, wiping at his eyes.

"You sure there's nothing you want to talk about?" Mike asked.

"I'm just feeling a little blue lately, that's all," Stan said. "I'll be OK. You know me. I'll power through it."

Later, Mike heard from some other employees that Stan has had several of these episodes in the last month.

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

### Reader Responses

#### 1 Steven Johnson, Director of EHS, NVE Inc., Herndon, VA

*What Steven would do:* Mike did the right thing by approaching the employee. Mental health stressors can potentially lead to unwanted incidents in the workplace, such as active shooter scenarios, decreased attention to details on the job and suicidal or homicidal ideations, to name a few.

Mike seems to be an observant and caring manager, so he may recommend Stan go to Human Resources to take advantage of mental health benefits such as counseling and other psychiatric services. Maybe some paid-time-off or vacation leave would be in order.

Additionally, I recommend Mike meet with HR to arrange mental health awareness training. Stan may not be the only employee undergoing

momentary or long-term mental challenges. I would say that the majority of us do not feel or recognize that we have a defined mental health issue. Training will assist in recognizing our issues and hopefully guide us in making a positive decision in moving forward to a successful and productive life. On a last note, "If you see something, say something!" Don't wait until it's too late.

*Reason:* During this time of COVID-19, we are being directed to not socialize, intermingle with or physically make contact with one another.

Humans are social beings. This, along with other stressors can easily lead us on a path of needing mental health evaluation, but as we can see from the above scenario, the employee is avoiding opening up to Mike. Life has a way of keeping us on guard. When we are caught off-guard, how we address these moments is what counts.

### OUTSIDE THE LINES

#### LOOK OUT! BIG BROTHER IS WATCHING ... YOUR BUTT

You've heard of "wearable" tech to help monitor warehouse or construction workers, but what about office workers?

Worry no longer because Chinese tech company Hebo Technology developed "smart" cushions for office chairs, according to Malaysia's *The Star*.

The company's workers were given the cushions – which monitor heart rate, breathing, fatigue and posture – as a sign of goodwill.

However, the cushions also alerted management when workers were away from their desks – a feature they didn't share with employees.

Workers found out about the cushion's spying abilities and took their complaints online, and at least one lawyer claims the devices are illegal.

### Did you know ...

Warn workers about amputation hazards involving machinery



OSHA says employers must protect workers from amputation hazards with adequate guarding and training on how to do the job safely.

Source: OSHA

The best way to prevent amputations is by providing physical barriers to a machine's hazardous areas and training employees how to safely operate the equipment.

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