

April 14, 2021

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## 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.

## The pandemic is changing: What does this mean for worker safety?

### ■ *Evolving rules, vaccines creating new challenges*

The pandemic as it is now – with vaccines being rolled out, new guidance from the CDC and states relaxing rules – is vastly different than it was just three months ago. What does all this change mean for workplace safety? A lot, and it's complicated.

OK, the pandemic has been challenging from the start, but the changes introduced when vaccinations became available pose all sorts of new questions, including: If workers are vaccinated, are masks still necessary? What do I do if my state relaxed precautions, but my company still requires them? If my state relaxed

precautions, will that matter to OSHA during an inspection?

#### **Vaccines and masks**

The CDC issued new guidance March 8 regarding a slight lifting of restrictions on individuals who have been fully vaccinated.

This new guidance means fully vaccinated individuals can:

- gather indoors with other vaccinated people without wearing a mask
- gather indoors with unvaccinated people from one other household without masks, unless any of those people, or anyone they live with,

*(Please see Changing pandemic ... on Page 2)*

## ENFORCEMENT

### *Moves Biden administration OSHA may make next*

We already know an OSHA COVID-19 emergency temporary standard is a top priority for the Biden administration, but what other goals will the agency have its eye on the next few years?

Attorney and occupational safety specialist Adele Abrams said during her Premier Learning Solutions webinar, "Safety Polices in 2021: How the New Administration Impacts Employers Now," that Trump Department of Labor policies that weakened enforcement of workplace safety regs are likely to be rescinded.

#### **Expansion of penalty powers**

Expect an expansion of OSHA's powers for issuing penalties that involve criminal prosecution, in conjunction with the Justice Department and EPA. "I'm certain

that that's going to be addressed within the next two years," Abrams said.

These changes could come as a part of the Protecting America's Workers Act, omnibus OSHA reform legislation or as a standalone criminal penalties bill. We'll keep you posted.

Among the penalty legislative changes being talked about: an egregious willful violation involving a worker fatality that previously carried a six-month federal prison sentence could get increased in severity to a felony-level 10-year sentence.

You can also expect heightened whistleblower protection enforcement under OSH Act Section 11C (and OSHA regulation 1904.36).

For more, see "Moves Biden administration OSHA may make next" on our website.

### FALSE STATEMENTS

## Manager pleads guilty for lying to OSHA

The former maintenance manager at a Williston, ND, oilfield pleaded guilty March 8 to a felony charge of obstructing an OSHA investigation into a 2014 fatal explosion.

Stephan Todd Reisinger, 50, the former maintenance manager with Nabors Completion and Production Services Company (NCPS), admitted he made false statements to OSHA regarding the contents of tanker trailers during an investigation into the explosion, which killed a welder under Reisinger's supervision.

He faces up to five years in prison.

### Thought it was 'just water'

The explosion occurred Oct. 3, 2014, when 28-year-old Dustin Payne welded on an uncleaned tanker trailer that previously carried "produced water," a flammable liquid waste generated by oil wells, according to a Department of Justice news release.

Welding on containers that haven't been cleaned to remove all explosion

hazards is illegal under federal law.

Reisinger told OSHA he didn't know of the hazards and composition of produced water and falsely stated he thought it was "just water" in the tanks.

The corporate successor to NCPS, C&J Well Services, pleaded guilty to charges related to Payne's death and was sentenced Aug. 28, 2019, to pay \$2.1 million in fines and restitution.

## Changing pandemic ...

(continued from Page 1)

has an increased risk for severe illness from COVID, and

- refrain from quarantining or getting tested for COVID-19 if you've been around someone with the virus unless you have symptoms.

This means if everyone "working on your floor ... has been fully vaccinated, you can gather together without wearing masks," according to law firm Breazeale Sachse & Wilson.

But even if you've been fully vaccinated, all the usual pandemic precautions still need to be followed.

### 'Open state' issues

According to CNN, as of March 10, 16 states either let mask mandates expire or never had them in place to begin with.

However, some major corporations such as Hyatt Hotels, Target, Starbucks and CVS Health stated they have no plans to drop mask requirements in any of these states.

"These businesses are likely on the 'right' side of the debate in the opinion of the agencies that regulate workplace safety standards," according to law firm Shawe Rosenthal.

Employers can still require masks even if a state dropped its mandate, but companies that do need to be prepared to deal with challenges from employees, clients or customers.

The safest choice is to continue to follow the CDC's and OSHA's recommendations since failure to do so could leave an employer open to a General Duty Clause violation.

*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.*

### ■ IS OSHA CORRECT IN CALLING THE GUARD A HAND TOOL?

"Hello John," Safety Manager Pete Travers said as company attorney John Jenkins entered his office. "What can I do for you?"

"You seem awfully chipper," John said.

"I'm finally able to go to the concert that got canceled last year," Pete said, grinning ear to ear.

"Those concerts can be awfully loud, though," John said, teasing. "Aren't you concerned about your hearing?"

"Oh, I'll be wearing hearing protection," Pete replied.

### Not required under standard

"Anyway," John said, changing the subject. "Can you tell me about the worker with the cut on his hand?"

"Oh yeah, the OSHA citation," said Pete. "Craig Conroy followed our 'four-inch' rule to keep his fingers out of the danger zone of the power saw he was using, but he failed to use the push guard that is attached to the saw table.

"When the piece he was cutting turned, it pulled his hand into the saw, which caused him to get a pretty deep cut," Pete continued.

"OSHA says we failed to provide employees with proper tools to prevent hands from making contact with the saw blade," John said.

"That can't be right," said Pete. "The machine guarding standard doesn't require the use of feeding tools."

"If the standard doesn't require it, then we can fight this," John said.

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

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

## SAFETY COMPLIANCE *Alert*

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## HEALTHCARE

### Staff COVID deaths not reported to OSHA

■ REPORT: CA NURSING HOMES FAILED TO REPORT EMPLOYEE FATALITIES

More than 220 California nursing home employees have died of COVID-19, according to the state's Department of Public Health online dashboard, but records indicate about 64 nursing homes failed to report these deaths to Cal/OSHA.

A review of state records by the *Sacramento Bee* indicates Cal/OSHA doesn't know how many nursing home workers have contracted COVID-19 on the job and died.

Only about half of the listed facilities where employees died from the virus "bothered to report the death to Cal/OSHA ... according to the state records," the newspaper reports.

The failure to report COVID-19 deaths exposes a "significant flaw" in California's response to the pandemic, revealing the state is unable to properly track the spread of the virus in a vulnerable healthcare setting.

That lack of tracking "makes nursing homes inherently more dangerous ... because it obscures where poor workplace conditions are

seeding community outbreaks."

Records from the California Department of Health were compared with Cal/OSHA's records and the newspaper attempted to speak with nursing home management at the facilities that failed to report.

#### Facilities, Cal/OSHA respond

Out of those who responded, eight told the newspaper they didn't report the deaths because in-house investigations found the employees hadn't been infected at work and three acknowledged deaths but said they'd notified Cal/OSHA.

Seven others said the state health department records are incorrect and they didn't have any employee deaths from COVID-19.

Another four dozen facilities didn't respond to the newspaper's inquiries.

A Cal/OSHA spokesman told the newspaper he was "unaware of the nursing home reporting discrepancy."

The agency is fining nursing homes for failing to report COVID-19 deaths or illnesses, however, with a few facilities being fined for infractions in early February.

## MARIJUANA

### Safety expert: What if the feds decriminalize weed?

So far, medically prescribed weed is approved in 36 states. In addition, 15 states and Washington, DC, have legalized marijuana for recreational use. However, at the federal level it's still a Schedule 1 controlled substance.

During a recent webinar, workplace safety attorney Adele Abrams said the new Congress might vote on whether weed should be decriminalized.

"Once it is no longer illegal federally, all of that case law under the federal Americans with Disabilities Act (ADA) (which says medical marijuana users aren't protected under the ADA) goes away. And there now may be a duty to reasonably accommodate a medical cannabis user, just like you would somebody who is

using opiates or seizure medication or antidepressants," she said.

#### What it means for you

It's time to review your company's drug testing and substance abuse policies because "you can no longer have a legacy style program that says: 'You're not allowed to use illegal drugs' because workers don't know what that means anymore."

Refer to your state regs on what kind of drug testing you're allowed to do and what rights employees and job applicants have.

Also, OSHA is likely to revert to the policy that you can't test somebody simply because they were injured (except in special cases).

## TRENDS TO WATCH

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

### ■ NEW STUDY WILL LINK COVID CLEANING, JANITOR INJURIES

California recently approved a study that will investigate how the rigorous new COVID-19 cleaning standards could affect injuries in janitorial staff as they return to work.

The statewide survey will assess current working conditions – prevention measures and productivity requirements, for example – and knowledge of CDC recommendations for cleaning and disinfecting during the pandemic.

This will go along with a detailed time motion study and ergonomic analysis to provide physical exposure measurements and time on task information while assessing a worker's risk for musculoskeletal disorders.

The study is being conducted by the Northern California Center of Occupational and Environmental Health across three University of California campuses.

### ■ COMPENSATION FOR MEDICAL WEED NOT ILLEGAL

An injured New York police officer will be reimbursed for medical marijuana following a Feb. 25 appeals court decision.

The workers' compensation insurance carrier denied reimbursement of the drug claiming the state's medical marijuana law was preempted by the federal Controlled Substances Act (CSA).

That would make reimbursement for medical marijuana illegal, the carrier argued.

The appeals court found that reimbursement for medical marijuana in no way subverts the principal purposes of the CSA in combating drug abuse particularly in this case, which involves someone who was validly authorized to use medical marijuana to both treat his chronic pain and reduce his reliance on opiates.

## Roundup of most recent OSHA citations

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

### **Toll road worker struck, killed by vehicle: \$7K fine**

The Indiana Toll Road Concession Company was cited after one of its maintenance workers was struck and killed by a vehicle.

Ronald Smith was in front of his ITR Concession truck sweeping debris from the shoulder of the toll road when an SUV sideswiped his truck and hit him.

The SUV then rolled over into a ditch, resulting in minor injuries to the 70-year-old driver and his passenger, according to 95.3 MNC News.

Smith's truck had its emergency lights on at the time of the crash, but Indiana OSHA inspectors found ITR Concession didn't provide appropriate traffic control.

**Fine:** \$7,000

**Company:** Indiana Toll Road

Concession Company, Elkhart, IN  
**Business:** Support activities for road transportation

**Reasons for fine:**

*One serious violation for failure to:*

- provide temporary traffic control methods to protect employees performing maintenance activities

### **Worker's arm partially amputated by auger**

An Ohio food manufacturer was cited after a production worker suffered a partial arm amputation while cleaning an auger.

The worker was cleaning an auger used to rice potatoes when she found her left arm caught in the machine, which was still running.

She suffered multiple lacerations and partial amputation of her left arm, according to a Department of Labor news release.

Her co-workers had to cut the auger apart to free her from the machine.

**Fine:** \$136,532

**Company:** BEF Foods, Lima, OH  
**Business:** Food manufacturing

**Reasons for fine:**

*Two repeat violations for failure to:*

- ensure employees were protected from energized parts when cleaning horizontal augers
- provide adequate training ensuring purpose of energy control program was understood by employees

### **Contractor cited twice after teen worker injured**

OSHA cited an Ohio roofing contractor after a teen worker suffered injuries from a fall while working on a roof and then cited it again two weeks later when workers were observed working without fall protection.

A 14-year-old boy was working on the roof of a townhome without fall protection and was injured after he fell 20 feet to the ground.

Video footage from a nearby security camera showed the boy and three other employees were working without fall protection, so a citation was issued for the violation, according to a Department of Labor news release.

Sixteen days later, inspectors observed the company owner and four employees working without fall protection on a the roof of a residential building, leading to a second citation.

**Fine:** \$11,118 (first citation); \$62,415 (second citation)

**Company:** Double M Roofing &

Construction, West Farmington, OH

**Business:** Roofing contractor

**Reasons for fine:**

First citation includes:

*Two serious violations for failure to:*

- train employees in recognition and avoidance of unsafe conditions
- ensure employees working 6 feet or more above lower levels were protected by guardrail, safety net or personal fall arrest systems

Second citation includes:

*Two willful violations for failure to:*

- train employees in recognition and avoidance of unsafe conditions
- ensure employees working 6 feet or more above lower levels were protected by guardrail, safety net or personal fall arrest systems

## WORKERS' COMP DECISIONS

### **Can worker get benefits for post-concussion syndrome?**

A transportation worker was injured when a trailer's deck bar struck him in the head. He received benefits, but later wanted to add post-concussion syndrome. Can he collect?

**What happened:** The worker was loading a truck when he was struck in the head by the deck bar, leading to a laceration, loss of consciousness and injury to the optic nerve in his left eye. He was later diagnosed with post-concussion syndrome and added that to his claim.

**Company's reaction:** The evidence provided is based on complaints, not on a real medical diagnosis.

**Decision:** He could collect. The court found there was no evidence the diagnosis was based solely on subjective complaints.

**Cite:** *Somerick v. YRC Worldwide Inc.*, OH Court of Appeals, No. 29239, 5/13/20.

### **Exam indicates pre-existing condition: Benefits?**

Can a worker continue to receive benefits after his claim was denied based on further medical examinations?

**What happened:** The worker was collecting benefits for previous back injuries. He filed another claim for later complications, but his employer rescinded all benefits after a new medical exam revealed pre-existing degenerative disk disease.

**Company's reaction:** The new evidence proves your injury isn't work-related.

**Decision:** He couldn't collect. The evidence proved his pain was related to a pre-existing condition.

**Cite:** *Weaver v. ASRC Federal Holding Co.*, AK Supreme Court, No. S-17406, 6/5/20.

## REAL PROBLEMS, REAL SOLUTIONS

### Our hazard recognition skyrocketed

We had a situation several years ago with a series of serious events. So we conducted a week-long safety assessment.

A conversation I had with one employee painted the picture of what we were up against.

#### 'I'm getting a new board?'

The employee was in the boiler room. I had noticed a board, nine feet up, running between the tops of the two boilers.

I asked the employee why the board was there.

He said when they had to take readings from the boilers, it was easier to walk across the board from one boiler to another instead of climbing down the ladder, moving the ladder, and climbing back up again.

The employee and I had a pretty lengthy conversation about finding a better, safer way to do this task, the hierarchy of controls, etc.

As we were wrapping up, the employee asked me, "Does this mean you're getting us a new board?"

It was an alarming response after having the safety conversation with the employee.

#### Improved safety engagement

The study results (and the conversation I had with the worker about the boiler) showed there was a hazard recognition and reporting problem from top to bottom within the facility.

Employees weren't engaged enough with safety, so they weren't reporting hazards.

That led us to make a concerted effort to train all plant employees about hazard recognition over the course of a year.

We taught them how to have quality engagement about safety.

The facility went from having no formal program for employees to report hazards to having more than 10,000 reports about unsafe conditions in the first year of our program.

When it came to hazards, we got a lot better at "find it, fix it."

We track the closure rate of all hazard reports. The facility is consistently in the high 90% range for report closure.

*(Adapted from a presentation by Matthew Boardman, Sr. Manager Global EHS, Whirlpool Corp., Benton Harbor, MI, at the National Safety Council's Virtual Congress 2020)*

### Workers helped solve noise problem

Boeing's Mesa facility is where the AH-64E Apache attack helicopter is assembled and tested.

The Apache's environmental control system (ECS) is very loud, with noise levels ranging from 84 to 104 dBA while work is being performed.

Noise over 85 dBA can lead to permanent hearing loss, and while hearing protection is required, it makes communication between crew members difficult.

#### Employees came up with solution

Production employees and engineers worked together to develop a noise suppression kit – or "hush kit" – to reduce ECS noise levels.

The kit consists of a baffled box with sound absorbing foam, which is rolled and situated against the exhaust outlet.

This solution proved to be effective at reducing noise levels by 50-72% while also being inexpensive to make.

While it doesn't remove the need for hearing protection, it does make working near the helicopters more tolerable.

An additional benefit of this solution was employees became more engaged when they saw they could take action and influence workplace safety.

*(Adapted from a NIOSH news release regarding Boeing's Mesa, AZ, facility winning the 2021 Safe-in-Sound Excellence in Hearing Loss Prevention Award)*

## TRAINING TIPS

### Remind workers that hearing loss is permanent

Some workers hate to wear hearing protection because they find it either makes communicating to co-workers difficult or is just uncomfortable to wear.

However, the Centers for Disease Control and Prevention estimates that 22 million workers are exposed to potentially damaging noise at work each year.

Exposure to loud noise kills nerve endings in the inner ear with more exposure resulting in more dead nerve endings.

This leads to permanent hearing loss that can't be corrected through surgery or with medicine.

But hearing loss is preventable with the help of PPE and the use of sound measuring devices to monitor noise levels, according to OSHA.

Workers should know workplace noise may be a problem if they:

- hear ringing or humming in their ears when they leave work.
- have to shout to be heard by a co-worker an arm's length away, or
- experience temporary hearing loss when leaving work.

For more information, see our online Training Shop on hearing loss.

### Poor decision making can lead to dire consequences

Needless to say, but human beings are capable of making some really questionable decisions.

A recent OSHA fine involved warehouse workers who were allowed to hitch rides on industrial trucks that weren't designed to carry passengers.

One day a worker slipped and fell off the truck he was riding on, leading to a partial leg amputation and a crushed pelvis.

Unfortunately, poor decisions can lead to life-altering injuries or death.

## PANDEMIC

### OSHA launches new COVID emphasis program, inspections

OSHA launched a national emphasis program (NEP) March 12 focusing enforcement efforts on companies that put workers at serious risk of contracting COVID-19.

This program, which comes a little more than a year into the pandemic, will also prioritize employers that retaliate against workers for making complaints about unsafe or unhealthy conditions.

OSHA has “a moral obligation to do what we can to protect workers, especially for the many who have no other protection,” OSHA Principal Deputy Assistant Secretary Jim Frederick said in a news release.

Inspections conducted under the NEP are meant to enhance the agency’s previous COVID-19 enforcement efforts.

#### Follow-up investigations

The NEP will also include follow-up inspections of some worksites inspected “during the Trump administration as part of a wider effort to better protect workers from the pandemic,” according to Reuters.

OSHA says the program “ensures abatement” and will include monitoring of the effectiveness of the agency’s enforcement and guidance efforts.

This NEP will remain in effect for up to one year, although OSHA can amend or cancel the program, if needed.

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### Comp fraud leads to 10 years, \$2.5M restitution

The owner of a California agriculture company and his daughter were each sentenced to 10 years and ordered to pay more than \$2.5 million in restitution after pleading no contest to six felony counts of workers’ comp insurance fraud each.

Felipe Saurez Barocio, owner of Agriculture Services Inc., and his daughter Angelita Barocio-Negrete were sentenced to serve six years in custody and four years on mandatory supervision Jan. 12 and ordered Feb. 22 to pay \$2,582,142 in restitution.

The restitution equals the amount of the premiums they avoided paying over five years.

California’s State Compensation Insurance Fund (SCIF) filed a claim Oct. 14, 2019, with the Department of Insurance regarding alleged workers’ compensation insurance fraud by Barocio’s company.

An investigation found Barocio

and his daughter, who worked as the company’s office manager, underreported employee payroll by \$11 million in order to fraudulently reduce the business’s premium for workers’ compensation insurance.

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### Employer pleads guilty in confined space death

An employer pleaded guilty March 15 to one federal criminal charge for willfully violating an OSHA rule, leading to an employee’s death.

Dana Container was charged for its involvement in the death of an employee in a confined space.

The company faces a criminal fine of up to \$500,000 and up to five years of probation.

OSHA investigated the May 2019 incident and found the employee asphyxiated while cleaning crude oil from the inside of the tank car.

Inspectors cited the company for willful and serious violations for failing to protect employees from hazards associated with permit-required confined space entry and inadequate respiratory protection procedures.

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## SHARPEN YOUR JUDGMENT – THE DECISION

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(see case on Page 2)

Yes, the company won. The court found OSHA’s citation was made under an incorrect interpretation of the standard in question.

The company claimed the standard – 1910.212(a)(3)(iii) – was clear in stating hand tools were not a requirement on machines with points of operation that can’t be guarded.

OSHA argued the standard was explicit in mandating the use of tools for hand feeding materials into such a machine.

The court found the plain language of the standard doesn’t require use of hand tools, but only mandates that, if used, they permit easy handling of material without the operator placing a hand in the danger zone, and they can

only be used to supplement guards already required by the standard.

#### ■ ANALYSIS: USING ALL AVAILABLE SAFEGUARDS

While this case hinges on whether the item in question was a guard or a hand tool, it’s really a moot point since a worker was injured.

The bottom line here is that a safeguard was available, the worker failed to use it – thinking the four-inch rule was enough – and the result was a severe laceration to his hand.

Workers need to be aware they should use all safeguards at their disposal, including workplace guidance like the four-inch rule, while operating dangerous machinery.

**Cite:** *Secretary of Labor v. H-E-B L.P.*, Occupational Safety and Health Review Commission, No. 19-1832, 2/1/21. Dramatized for effect.

## Government notices on workplace safety

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

### MINE SAFETY

MSHA issued new COVID-19 guidance March 10 to help protect miners from exposure to the coronavirus.

The guidance is meant to help mine operators identify COVID-19 risks and help them determine control measures to reduce those risks and contains recommendations and descriptions of existing mandatory safety and health standards.

This "is not a standard or regulation, and it creates no new legal obligations," according to the guidance document.

All recommendations in the guidance are advisory and for information purposes intended to assist operators in abating the spread of the coronavirus.

However, the guidance says operators should "implement COVID-19 Prevention Programs at each mine" with the most effective programs including these key elements:

- a hazard assessment of the mine site
- identification of a combination of measures that limit the spread of COVID-19, and
- adoption of measures ensuring infected or potentially infected miners are separated and sent home.

MSHA states it plans on updating the guidance over time to reflect the latest developments in science, best practices and standards.

### TRANSPORTATION

Two transportation companies owned and operated by a Montana man were ordered Jan. 23 by the U.S. Federal Motor Carrier Safety Administration (FMCSA) to immediately cease operations due

to multiple federal safety violations.

Vallise Automotive Group and Central Logistics, both owned by Matthew Tabner, were found to "pose an imminent hazard to public safety," according to the FMCSA.

An FMCSA news release states Tabner's companies were found to have widespread federal safety violations, including:

- failing to have a vehicle inspection, repair and maintenance program, discovered after a November 2020 roadside inspection revealed deficient brakes on a truck and inoperative brakes on a trailer, and
- allowing a 16-year-old employee without a Commercial Driver's License, Commercial Learner's Permit or medical examiner's certificate to operate a vehicle exceeding 26,001 lbs.

Tabner and his companies could be assessed civil penalties of up to \$27,813 for each violation of the out-of-service order.

If violations are found to be willful, criminal penalties involving a fine of up to \$25,000 and less than a year in prison could result.

The FMCSA is also considering civil penalties for the safety violations discovered during the investigation.

### COVID-19 ETS

It's official. OSHA missed the March 15 deadline President Joe Biden set for the agency to come up with an emergency temporary standard (ETS) regarding COVID-19. But the administration is giving OSHA time to get it right.

During a March 15 press conference, a reporter asked about the deadline, and White House Press Secretary Jen Psaki said:

"OSHA has been working diligently, but we, of course, believe they should have the time to get it right and time to ensure it's right, and so we're waiting for them to make a conclusion."

That means an ETS on COVID-19 may still be just around the corner.

### WHERE TO GET HELP

#### AIHCE EVENT GOING FULLY VIRTUAL FOR 2021

The American Industrial Hygiene Association (AIHA) announced March 1 that its American Industrial Hygiene Conference and Expo (AIHce) has converted to an entirely virtual format for 2021.

Originally announced as a hybrid in-person/virtual event, the AIHA announced on its website that it will be going entirely virtual once again.

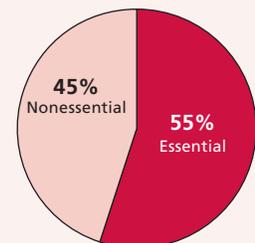
In-person registrations will be automatically converted to virtual.

AIHA is promising a "brand-new, more robust virtual platform for the 2021 conference," which will be held live over three days, May 24-26.

Every paid registration comes with access to AIHce OnDemand session recordings, so missed sessions can still be attended and additional contact hours earned through Dec. 31, 2021.

### What safety pros say

Do employees deemed essential workers have a greater likelihood of getting COVID-19 than those who are nonessential?



Source:  
Wharton University of Pennsylvania

This extends to those living with essential workers, too, as their dependents are 17% more likely of contracting COVID-19 than dependents of nonessential workers.

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?

## State lifts mask mandate, so supervisor tells workers not to wear them anymore

### The Scenario

Finally some nice weather, Manager Mike Kelly thought during his walk in from the parking lot, enjoying the clear blue skies and unseasonably warm temperatures.

As he walked into the facility, he passed several employees who, like him, were wearing cloth masks because of COVID-19.

Vaccines are rolling out, but we're not out of the woods yet, Mike thought.

But as he walked through Shipping, he noticed many workers weren't wearing masks.

"Hey, Charlie!" Mike called out to one worker. "Where's your mask?"

"We don't have to wear them anymore," Charlie answered. "The state lifted the mask rule, and Jack says that means we don't have to wear them anymore."

"What's the ruckus?" Supervisor Jack Hall said, stepping out of the nearby shipping office. He wasn't wearing a mask. "Don't you guys have work to do?"

### 'If the state feels it's safe ...'

"I stopped them, Jack," Mike said. "I was wondering why they aren't wearing their masks."

"Because they don't need to," Jack said. "The governor said we don't need them, so I stopped wearing mine. And if I'm not wearing one, there's no point forcing the guys to wear them, either."

"If the state feels it's safe to dump the masks, why would the company continue to enforce their use?" he asked.

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

### Reader Responses

#### 1 Mike Yoder, Director of Environment Safety, Provia, Sugarcreek, OH

*What Mike would do:* Our company mask policy has been if it's a health hazard, they are not required to wear one. To date, we are allowing employees to sign a form that allows them to opt out if they feel it is a safety or health hazard to them.

*Reason:* We have absolutely no problem with the virus and have had no problems.

#### 2 Elise Allen, EHS Program Manager, Jergens Inc., Cleveland

*What Elise would do:* If the company policy has not changed, then masks are still required at work.

Our COVID management team is

always evaluating the information we get from all sources and will let us know when the company policy changes.

*Reason:* With careful management, we have kept our cases here low and have not had an internal transmission.

I do remind workers that mask wearing is still our policy and to follow it.

#### 3 Sean McNally, EHS Manager, Rivermaid Trading, Lodi, CA

*What Sean would do:* I would respond to Jack with a clear and direct statement that we have not changed our policy as of yet.

Until we do, I'd say, "Please ensure you and your crew are still wearing your masks."

*Reason:* I would assure him as soon as I find out any new changes I will be sure to get the word out as soon as possible.

### OUTSIDE THE LINES

#### POST-COVID RECOVERY AIDED BY ... OPERA SINGING?

Injured workers are often sent for physical therapy to help them recover, and it turns out people with COVID may also need PT.

A unique program started by the English National Opera and a London hospital may be the answer.

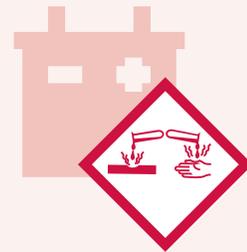
Opera singing is rooted in breath, and people recovering from COVID suffer breathlessness, fatigue and related problems, so a director at ENO took her idea to a London doctor and the program was born.

The program, called ENO Breathe, is a six-week course that "offers patients customized vocal lessons: clinically proven recovery exercises, but reworked by professional singing tutors and delivered online," according to *The New York Times*.

But no one is promising you'll be able to sing an aria afterward.

### Did you know ...

Remind workers about the hazards of forklift and truck batteries



Forklift and truck batteries are heavy, contain sulfuric acid and produce hydrogen gas, so proper handling is required.

Source: Washington State Department of Labor & Industries

Forklift and truck batteries need to be handled and stored properly to prevent strains, burns and explosions, so employees need to be trained to avoid these hazards.

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