

September 1, 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 lead by veteran Editor-in-Chief Fred Hosier.

## Why is safety training important? Because workers' lives are at stake

### ■ 6 untrained workers dead, \$1M in OSHA fines

**W**hy is safety training important? Because, as several companies involved in a fatal incident learned, without it workers can lose their lives.

After six workers died following a liquid nitrogen leak that displaced the oxygen in the room they were working in, four companies were fined almost \$1 million for the roles they played in the tragic incident.

#### No precautions before entry

Foundation Food Group Inc. and Messer LLC, both based in New Jersey, and Packers Sanitation Services

of Wisconsin and FS Group Inc. of Alabama have been accused by OSHA of 59 violations leading to the deaths of the six workers.

The incident occurred Jan. 28, 2021, when a freezer malfunctioned at a Gainesville, GA, poultry processing facility owned by Foundation Food Group – and operated in part by all four companies.

Three of the plant's maintenance workers entered the freezer room without precautions and were overcome immediately because of a liquid nitrogen leak that caused the oxygen in the room to be displaced.

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

### PANDEMIC

## DOJ: Businesses can mandate COVID vaccinations

**P**rivate businesses and public agencies cannot be barred by federal law from mandating COVID-19 vaccinations, according to the U.S. Department of Justice (DOJ).

This is via an opinion issued July 26, but dated July 6, by the DOJ Office of Legal Counsel, which came just hours after a Department of Veterans Affairs mandate requiring vaccinations for certain employees.

#### Emergency use authorization

The Department of Veterans Affairs is the first federal agency to issue such a mandate, according to Politico. This order gives physicians, dentists, nurses and other frontline medical staff eight weeks to get fully vaccinated.

The DOJ opinion clarifies businesses and public agencies aren't prohibited from requiring the vaccine

under an emergency use authorization contained in the Food, Drug, and Cosmetic Act.

Guidance from the Equal Employment Opportunity Commission (EEOC) that was issued in April also states employers can require vaccinations for all employees who must physically enter the workplace.

Despite the EEOC guidance in April, the commission didn't answer questions surrounding potential legal issues of COVID-19 vaccines that didn't have full FDA approval, which kept "many businesses from mandating the shots," Politico states.

New York City, the State of California and the National Football League have all recently instituted vaccine mandates of one kind or another.

## INVESTIGATION

### Lawsuit filed for 2 with COVID concerns

The U.S. Department of Labor (DOL) filed a lawsuit against the owners of two Texas dental practices after two employees allegedly weren't reinstated over their concerns regarding COVID-19 safety measures.

A dental hygienist and dental assistant who reported COVID-related safety concerns weren't rehired after their offices reopened in 2020.

Roger Bohannan and David Bohannan, owners of Roger H. Bohannan DDS Inc., furloughed their employees in March and April 2020, following state coronavirus mandates.

During the furlough, the two employees inquired about COVID safety measures the owners would take when they returned to work, according to a DOL news release.

#### Offer rescinded

The hygienist received a phone call to return to work, but allegedly the Bohannans didn't reinstate them after the employee cited guidance from

OSHA and the Centers for Disease Control and Prevention.

After contacting the dental assistant about rehiring, the Bohannans allegedly rescinded the offer after the employee asked about the safety measures in place at the office.

OSHA said the employer discriminated against the employees for making good-faith safety complaints.

### Safety training...

(continued from Page 1)

Other workers entered the room and were also overcome, according to a Department of Labor news release.

The maintenance workers and two other workers died immediately while a sixth died on the way to the hospital.

A dozen other workers were injured and required hospital care.

None of the employees were trained on the hazards of nitrogen exposure.

#### Investigation

An OSHA investigation found Foundation Food Group and Messer failed to implement safety procedures necessary to prevent nitrogen leaks, or to equip their workers with the knowledge and equipment that could have saved their lives while responding to a leak.

Packers Sanitation Services Inc. Ltd., which provided cleaning and sanitation services at the facility, and FS Group, which manufactures equipment and provides mechanical servicing, are also accused of failing to train their workers on the same hazards.

The four companies received a total of \$998,637 in penalties.

The fines broke down this way:

- Foundation \$595,474
- Packers \$286,720
- Messer \$74,118, and
- FS Group \$42,325

Violations included failure to train employees on hazards of liquid nitrogen and anhydrous ammonia, lack of lockout/tagout procedures and failure to implement a written permit space entry program.

## 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 INJURED TEMP'S TRAINING?

Safety Manager Pete Travers was getting irritated.

"Who keeps moving this fire extinguisher?" he asked out loud, carrying the device back to its proper location in the warehouse.

"I'll definitely be bringing this up in today's safety meeting," he thought.

"Pete, I've been looking for you," John Jenkins, the company attorney, said as he approached.

"John, you're just in time," Pete said, suppressing a grin. "We're going to have a stakeout to see who keeps moving this fire extinguisher."

"It'll be just like one of those buddy cop movies," Pete added.

"No," said John.

### Company sued over injury

"We're being sued by a temporary employee, and I need some information," John said. "He was only with us for about five days, according to our records."

"Yeah, I remember him," Pete said. "His name was Jon Carlsson. He was injured when he tripped and fell."

"Did he have safety training?" John asked.

"Yes, he received the training all of our employees get, whether they're full time or temporary," Pete replied. "But another temp from his agency trained him on job basics."

"If that's the case, then workers' compensation should be his only remedy," John said. "We can get this case dismissed, for sure."

Pete's company tried to get the lawsuit dismissed. Did the court agree to dismiss it?

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

## SAFETY COMPLIANCE *Alert*

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## CRIMINAL CHARGES

### Owner fakes injury to get comp benefits?

■ EMPLOYER ACCUSED OF CONTINUING TO WORK WHILE BEING INJURED

When you think about people faking injuries in workers' compensation cases, typically it's a worker trying to take advantage of the system, right? However, as recent fraud charges demonstrate, sometimes business owners are accused of faking injuries, too.

Byung Sung Kang, the owner of Century Cleaners, an Olympia, Washington-based dry cleaning business, is facing one count of first-degree theft for allegedly stealing workers' compensation benefits by faking the severity of his injury.

According to the Washington State Department of Labor & Industries (L&I), Kang is accused of stealing:

- more than \$21,000 in wage replacement payments, and
- almost \$50,000 in medical bills, interpreter fees, vocational costs and other benefits.

L&I investigators filmed Kang performing physically strenuous tasks at his shop while simultaneously claiming his work-related injury was

so severe he had to spend his days resting at home.

In 2015, Kang injured his back while working at his business and began receiving payments from L&I in late 2016 after a doctor told him he was too injured to work.

He continued to submit official forms stating he couldn't work due to the back injury.

#### 'Minimally involved' in business

An investigation began in 2019 "after an internal search of state databases raised questions about him and his business."

Later, investigators filmed Kang loading and unloading washers and dryers, hanging clothes and performing other work.

Kang told L&I he was "minimally involved in his dry cleaning business, doing only light tasks and rarely helping customers."

If found guilty, Kang could spend up to 10 years in prison and could be ordered to pay a \$20,000 fine.

Kang pleaded not guilty to the first-degree felony theft charge.

## TRENDS TO WATCH

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

### ■ NEW EMPHASIS PROGRAM TARGETS TANK CLEANING OPS

OSHA Region VI announced July 23 that it is instituting a new Regional Emphasis Program (REP) for Transportation Tank Cleaning Operations in **Arkansas, Louisiana, Oklahoma** and **Texas**, as well as worksites in **New Mexico** that fall under federal jurisdiction.

This REP – which is effective immediately – targets companies involved in the cleaning, repair and maintenance of transportation tanks.

Between 2016 and 2021, OSHA Region VI offices conducted 165 inspections within the industry resulting in 318 violations, according to the new REP.

Of those, 36 were initiated as a result of a workplace fatality, with about 20% of the fatality investigations involving worker entry into confined spaces and permit-required confined spaces.

U.S. Bureau of Labor Statistics data revealed there were 65 deaths in the U.S. for this industry during the same period led Region VI to create the REP.

The Chicago region has a similar tank cleaning REP.

### ■ NEW EMERGENCY HEAT EXPOSURE RULES ADOPTED

**Washington State** adopted emergency rules July 9 for protecting workers from extreme heat.

The rules are intended to protect employees who are exposed to extreme heat – such as those in agriculture, construction and other outdoor industries – while clarifying steps employers must take to prevent heat-related illness.

L&I is planning to update its existing heat exposure rules and will be producing an initial draft in the coming months.

Oregon OSHA also recently adopted similar extreme heat exposure rules.

## CORONAVIRUS

### CDC issues new mask guidance for COVID variant

The U.S. Centers for Disease Control and Prevention (CDC) is recommending fully vaccinated people wear masks indoors in areas where COVID-19 transmission levels are high in new guidance issued July 27.

This comes as a result of new data revealing that vaccinated people infected with the Delta COVID-19 variant can have as much virus as the unvaccinated when infected.

#### Delta plays big part in decision

The prevalence of the Delta variant – which now makes up about 83% of all U.S. COVID cases – played a big part in this decision, according to CNN.

However, "vaccinated people still play a small role in transmission and

breakthrough infections are rare," so getting vaccinated against COVID-19 is still highly recommended.

About 46% of U.S. counties are considered to have high transmission rates with another 17% considered to be in the "substantial" transmission category, according to data the CDC provided at a July 27 news conference.

The CDC recommends fully vaccinated people wear masks in public, indoor spaces in areas of "substantial" or "high" transmission rates.

Following the announcement of the CDC guidance, the National Safety Council issued a response renewing its plea for employers to act as leaders in promoting COVID vaccinations and getting their employees vaccinated.

## Roundup of most recent OSHA citations

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

### Worker killed removing jam from pneumatic door

OSHA cited a concrete product manufacturer after a worker was killed attempting to remove a jam from an open pneumatic concrete mixer discharge door.

The employee was attempting to remove the jam with an air chipper, which caused the door – which was under 90 pounds per square inch of pressure – to close while his head and neck were inside.

He suffered head and neck crushing injuries resulting in his death.

**Fine:** \$451,079

**Company:** Fabcon Precast, Grove City, OH

**Business:** Other concrete product manufacturing

**Reasons for fine:**

*Five willful violations for failure to:*

- isolate permit spaces
- prepare entry permit before authorizing entry to permit space
- provide training on permit spaces
- train employees in recognition of hazardous energy sources
- include all required elements for application of energy control in lockout/tagout procedures

*10 serious violations, including failure to:*

- provide employment free from recognized impact and caught-between hazards likely to cause death or serious harm
- develop written permit space program

### Roofer repeatedly exposes workers to fall hazards

Oregon OSHA fined a roofing contractor \$104,000 for repeatedly exposing its employees to fall hazards at residential construction sites.

Inspectors found the contractor exposed employees to falls of 11 feet to 22 feet at one construction site in Portland by failing to ensure use of fall prevention systems.

The company was cited for the same offense seven times since May 2018, according to an Oregon OSHA news release.

**Fine:** \$104,000

**Company:** West Coast Roofing and Painting Inc., Portland, OR

**Business:** Roofing and painting contractor

**Reasons for fine:**

*Five repeat violations for failure to:*

- ensure use of fall protection systems when employees were exposed to falls of six feet or more to lower levels
- ensure ladder side rails extended at least three feet above upper landing surfaces
- ensure use of proper eye protection
- verify in writing that employees were trained in fall protection systems
- maintain proper injury and illness recording documents for 2019

*One serious violation for failure to:*

- properly install personal fall arrest system anchors

### Owner exposes employees to COVID-19: \$136K fine

OSHA cited the owner of several Rhode Island medical facilities for failing to protect workers from COVID-19 after he allegedly contracted the coronavirus and infected six employees with the disease.

Inspectors found the owner's actions willfully exposed employees to COVID-19.

An investigation revealed the owner allegedly continued to interact with workers and didn't properly implement safeguards after he exhibited COVID-19 symptoms and later tested positive for the virus, according the Department of Labor.

**Fine:** \$136,532

**Company:** North Providence Urgent Care Inc., North Providence, RI

**Business:** Freestanding ambulatory surgical and emergency centers

**Reasons for fine:**

*One willful violation for failure to:*

- provide employment free from recognized COVID-19 hazards that could result in death or serious physical harm

## WORKERS' COMP DECISIONS

### Can she collect benefits for fall during break time?

An office cleaning person was injured in a fall while on a break. Can she collect benefits?

**What happened:** The worker was on a 15-minute break when she fell while on her way to a pizza shop across the street from her office building. She injured her neck and back along with her right hip, shoulder and elbow.

**Company's reaction:** Your injury occurred during your break, so it wasn't job related.

**Decision:** She could collect. Short breaks are so closely related to the performance of the job they don't constitute an interruption of employment, according to the court.

**Cite:** *Matter of Shyti v ABM*, NY Court of Appeals, No. 531732, 3/11/21.

### He claims power tools led to elbow pain: Benefits?

A miner who regularly used power tools developed pain and tingling in his elbows. Can he collect?

**What happened:** The miner had to use vibrating hammers and wrenches regularly while on the job. Eventually, he developed pain and tingling in his elbows he claimed was a result of years of using those tools.

**Company's reaction:** Your condition worsened after you stopped working, so it's not job related.

**Decision:** He couldn't collect. Because the medical evidence wasn't conclusive and because the condition worsened after he quit working, the court found it was not a job-related injury.

**Cite:** *Gentry v. Pinnacle Mining Co.*, WV Supreme Court, No. 20-0046, 3/19/21.

## REAL PROBLEMS, REAL SOLUTIONS

### Safety pros: The burden of responsibility

Early in my career, I was employed by a maintenance company whose owner also owned a massive scrap facility that had a contract with the U.S. Navy to dismantle and scrap ships.

One day, I was working on a diesel engine in one part of the facility. From where I was located, I could look out across the scrapyard to where two massive cranes towered into the sky from their position along the docks.

These cranes were used to section ships apart, lift them out of the water and place them on the dock where work could continue on them, and they were also used to load ships.

While I was working, emergency alarms began to sound, and when I looked up, I noticed one of those cranes was no longer silhouetted against the skyline.

I went to the docks to see what happened.

One of the cranes tipped over, and I was looking at it in the water astonished at how something so large could just fall over.

An investigation revealed this old dock had a soft spot – probably a place where the crane rested and worked many times.

It was doing a maximum capacity lift at the time, and investigators estimated the dock dipped about 3 inches – that's all it took.

That dip pushed it past its center of gravity and it was all over.

Everything shut down. Everybody was concerned about the operator. There were probably 50 or 60 people surrounding the accident site trying to see if rescuers were going to bring him out of the water alive.

Unfortunately, what we witnessed was the divers removing his body.

#### Assigned to crane inspections

Shortly after this incident, I was assigned to inspect the cranes at that same facility.

I was 26 years old at the time, and I really felt that burden upon me, especially having been onsite when the

accident happened.

I went through training for a few weeks on how to inspect gantry, mobile and crawler cranes.

Needless to say, but I took my job very seriously.

#### 'That stuff stays with you'

Years later, I was working for a small service company that was contracted by a building materials company.

I did maintenance and repairs on tractor-trailers that hauled drywall.

And with drywall, you're talking about 80,000 pounds of weight going down the freeway.

One day I got a call from the owner of my company saying that one of the tractor-trailers I worked on was involved in a crash that killed a family of five.

An investigation revealed it was the result of driver error and had nothing to do with the equipment itself.

The owner reassured me I wasn't at fault and there were no lawsuits against us – the operator was driving too fast on a wet roadway – but ultimately, what I heard was the vehicle I worked on killed a family of five.

That stuff stays with you.

As I worked through those emotions, and as I continued to inspect highway equipment, I made sure I thoroughly inspected every nut, bolt, spring, decal and sign of rust.

I vowed to look for and document all of it because it could kill people.

#### More strict inspections

Later in my career, I worked on materials handling equipment and was called on to be an expert witness in a fatal forklift incident.

A piece of steel about the size of a thumb had broken off this lift, leading to the fatality.

Even though I wasn't directly involved, it still stuck with me, and led me to get even more strict about my inspections and their proper documentation.

*(Pierre Laudenberg, Senior Auditor, Lift Auditors LLC, San Pedro, CA)*

## TRAINING TIPS

### The benefits of pushing instead of pulling a cart

When using carts, workers should be pushing rather than pulling to save extra wear and tear on their bodies.

While it may feel easier to pull, doing so actually causes more strain on your body, resulting in back and shoulder pain or injuries, according to the Washington State Department of Labor & Industries (L&I).

L&I says it's better to push than to pull because pushing:

- allows you to see where you're going
- uses your body weight and larger muscles
- places less stress on your shoulder and back
- makes it less likely for you to trip, and
- won't cause you to roll the cart over your feet.

### Machine guards shouldn't be removed for any reason

Machine guards are there for a reason. Do not remove them. Period.

Safety pros know this, but sometimes getting supervisors, workers or upper management to understand can be a daunting task.

Why? It varies, but some common excuses are that machine guards get in the way, are inefficient or can cause manufacturing issues.

None of those excuses are valid because the guards are there to prevent operators from suffering life-changing injuries.

Example: OSHA recently cited a manufacturer after an equipment operator suffered a partial hand amputation because guards were removed from a sheet metal machine.

The guards were allegedly removed because they caused imperfections in products.

## CRIMINAL CHARGES

### Man involved in \$3.6M comp fraud sentenced to 33 months

An Orlando man charged in a \$3.6 million workers' compensation fraud scheme was sentenced May 10 to 33 months in federal prison for conspiracy to commit wire fraud and tax fraud.

Gregorio Fuentes-Zelaya was ordered to pay restitution to the IRS in the amount of \$5,766,286 and to an insurance company in the amount of \$68,073.

Fuentes-Zelaya pleaded guilty to the charges Sept. 11, 2020, and his partner in the scheme, Dennis Barahona – who is scheduled to be sentenced July 6 – pleaded guilty March 29.

#### Shell companies, immigrants

The scheme involved the employment of illegal immigrants in construction crews, which were hired through shell companies Fuentes-Zelaya and Barahona created.

These crews then entered into subcontractor agreements with construction contractors, allowing them to avoid responsibility for state and federal payroll taxes and workers' compensation insurance.

The two men would apply for workers' compensation insurance policies to cover a few employees

and a minimal payroll, then rented the policies to numerous work crews employing hundreds of workers.

If workers' compensation policies had been purchased for the actual payroll amount, the premiums would've totaled about \$3.6 million.

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### OSHA looking for info on mechanical presses

In an effort to update a 1971 standard on mechanical power presses, OSHA issued a request for information asking for general power press information along with opinions on whether it should model an update on the American National Standards Institute (ANSI) industry consensus standard.

The ANSI standard, which OSHA used as a model for its own standard, has been updated multiple times since it was first issued in 1971.

OSHA wants to know:

- whether it should update the mechanical power presses standard
- how closely it should follow the ANSI standard, if the agency does update its own standard
- what types of presses should be

covered, and

- more about presence-sensing device initiation systems

Comments must be submitted on or before Oct. 26, 2021.

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### Injunction filed to stop worker misclassification

Two district attorneys in California filed a motion for preliminary injunction to stop a service company from continuing to misclassify its workers as independent contractors instead of employees.

San Francisco District Attorney Chesa Boudin and Los Angeles County District Attorney George Gascón filed the injunction against Handy Technologies, a company that offers household services, including home cleaning and handyman services.

The motion is part of a lawsuit against Handy, "which alleges Handy is violating California law by unlawfully classifying its cleaning and handyman workforce as independent contractors, thereby stripping them of crucial workplace protections and worker safety-net benefits."

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## SHARPEN YOUR JUDGMENT – THE DECISION

(see case on Page 2)

No, the court allowed the lawsuit to proceed since there were triable issues of fact regarding who had complete control over the temporary employee.

First of all, full disclosure, we don't know how the temporary employee was injured since those details were not included in the court decision, so the information Pete provided to John is entirely fictional.

But the client company did argue that it was his "special employer" – the agency was his direct employer – so workers' compensation should be the sole remedy.

However, since there were questions regarding who provided most of the temporary worker's training and supervision – and since the company failed to immediately

establish itself as a special employer – the court reversed a lower court decision and allowed the lawsuit to move forward.

#### ■ ANALYSIS: TEMPORARY WORKER TRAINING

Safety pros know that all workers need safety training, whether they're full or part time, temporary or permanent.

But sometimes miscommunication can happen between a client company and a temporary agency over who is providing temporary employees with safety and other types of training.

So, whether it's the client company or the agency, whoever is doing the training needs to make sure it's documented and shared with the other party.

**Cite:** *Taylor v. Piatkowski Riteway Meats*, NY Court of Appeals, No. 36 CA 20-01016, 7/9/21. 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).

### TEEN WORKERS

A Pennsylvania contractor was ordered to pay \$179,000 in penalties, damages and back wages after it was caught allegedly employing five teens to perform hazardous roofing tasks.

An investigation by the U.S. Department of Labor (DOL) Wage and Hour Division revealed Pro Com Roofing & Construction employed minors between the ages of 15 and 17 to do construction work on roofs in violation of child labor laws.

According to a DOL news release, the company:

- employed the five teens to assist and clean up after adult roofers, use small hand tools to remove and install roofing materials, and use 15-foot ladders to get onto roofs, and
- allowed a 17-year-old worker to use an impact or screw gun to fasten boards to the roofs.

Roofing work is a banned activity for minors under the Fair Labor Standards Act due to fall and other hazards.

Pro Com is also accused of multiple overtime violations, leading to a court order to pay \$132,000 in back wages and damages to 37 workers along with civil penalties of \$47,901 for 19 willful violations, including knowingly employing the five teens in hazardous work.

### MARIJUANA

Amazon – at the same time the second-largest private employer in the U.S. and a company struggling with high injury rates – will no longer be screening its workers for marijuana use.

The company announced June 1 that it's adjusting its drug-testing policy in the U.S. and will now treat marijuana the same as alcohol.

"In the past, like many employers, we've disqualified people from working at Amazon if they tested positive for marijuana use," Dave Clark, Amazon Worldwide Consumer CEO, said in a news release. "However, given where state laws are moving across the U.S., we've changed course."

Amazon won't be including marijuana in its comprehensive drug screening program, except for positions regulated by the Department of Transportation.

Instead, the company will be treating marijuana the same way it treats alcohol and will continue to do impairment checks on the job.

It will also continue to test for all drugs and alcohol after any incident.

Further, Amazon's public policy team will be actively supporting The Marijuana Opportunity Reinvestment and Expungement Act of 2021 (MORE Act), legislation to legalize marijuana at the federal level, expunge criminal records and invest in impacted communities.

### COVID ETS

OSHA is not changing its COVID-19 emergency temporary standard (ETS) for healthcare facilities despite recent U.S. Centers for Disease Control and Prevention (CDC) guidance regarding mask wearing and the Delta variant of the coronavirus.

The CDC issued new mask guidance July 27 to help protect both vaccinated and unvaccinated people against the Delta variant, which now makes up about 83% of all U.S. COVID cases.

In response, OSHA posted on its ETS webpage that it "has reviewed the latest guidance, science and data on COVID-19" and has consulted with the CDC on the matter, leading the agency to determine that no changes are necessary at this time.

The agency also mentions that it will continue to monitor and assess the need for changes on a monthly basis.

## WHERE TO GET HELP

### VIDEO LOOKS INTO FATAL HYDROGEN SULFIDE INCIDENT

A new video from the U.S. Chemical Safety Board (CSB) provides insight into the events of the fatal hydrogen sulfide release at the Aghorn Operating waterflood station in Odessa, TX.

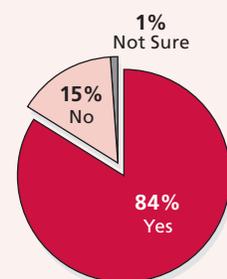
The video includes an animation of the events leading up to the incident along with interviews from both the CSB's chairperson and the supervisory investigator for this case.

Supervisory Investigator Lauren Grim reviews the facts of the event, the six serious safety issues identified in the investigation and the resulting recommendations made for all waterflood stations where the potential exposure to toxic hydrogen sulfide gas exists.

The video can be found on the CSB website at [csb.gov/csb-releases-aghorn-safety-video/](https://www.csb.gov/csb-releases-aghorn-safety-video/)

## What safety pros say

Did employers involve their employees in developing a COVID-19 safety plan?



Source: The Harris Poll 2021 State of Health and Safety

While 84% of employers said they involved employees in creating a COVID safety plan, 62% of employees said their companies involved them in the process.

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

# ANSWERS TO TOUGH SAFETY QUESTIONS

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

## New supervisor frustrated that workers don't understand his focus on safety

### The Scenario

"We're definitely going to need more work gloves and safety goggles," Ken Dawson, the production supervisor, said.

"OK, sounds good," Manager Mike Kelly replied. "I'll add those to the PPE order."

As Mike was leaving the manufacturing floor, Larry Stevens, Ken's new assistant supervisor on day shift, called out to Mike.

"Can we talk?" Larry asked. "In private?"

### 'Day-shift guys think I'm a jerk'

Mike escorted Larry into his office. "What's going on, Larry?" he asked.

"You know I recently transferred from second shift?"

Mike nodded his head in

the affirmative.

"Well, I'm having problems getting the day-shift crew to take me seriously when it comes to safety stuff," Larry explained. "They seem to think I'm being too picky or something."

"It was different on second shift," Larry added. "I worked on the production floor and then got promoted to assistant supervisor for that shift."

"That crew knew what mattered," he said. "And even if we disagreed on something, they at least knew I was only concerned about their safety."

"But the day-shift guys seem to think I'm just being a jerk," said Larry.

If you were Mike, what advice would you give to Larry?

 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 Steve Davies, QA Manager, LND Inc., Oceanside, NY

*What Steve would do:* Nothing against Larry. This is purely a company issue – the culture of the day shift. They have been allowed to operate outside the boundaries of safety by the day shift safety rep. You place a guy like Larry into that environment and he's going to meet resentment and pushback.

*Reason:* The company top management has to show the folks on day shift that they fully support Larry and his safety initiatives.

#### 2 Mike James, Safety Engineer, Harlan Electric Co., Rochester Hills, MI

*What Mike would do:* Leadership from the top should support Larry 100%.

*Reason:* Safety culture for that company should be the same on both shifts. The safety rep on day shift is a Dragger when he should be the Driver.

#### 3 Clint Wolfley, EHS and QA Manager, URS CH2M Oak Ridge, Oak Ridge, TN, at the VPPA Safety+ Symposium

*What Clint would do:* To get all our supervisors on the same page, we had them take a class for safety certification, so they could be dubbed "Safety Trained Supervisors."

The certification validated they were properly trained and ready to respond to any scenario.

*Reason:* Supervisors are very important to workplace safety. Safety happens on the front lines, where the supervisors are. Supervisors' attitudes and training can make or break a safety program.

### OUTSIDE THE LINES

#### ■ UP IN THE SKY. IT'S A BIRD! IT'S A PLANE! IT'S JETPACK MAN!

Between COVID and misbehaving passengers, commercial flights don't seem like a safe bet to some people.

Now hesitant travelers in the Los Angeles area can add one more thing to their list of worries: jetpack man.

The FBI is investigating what one pilot said may have been an airborne person with a jetpack flying near LA International Airport, according to the *Associated Press*.

According to AP, the *Los Angeles Times* reported the pilot radioed to report "a possible jetpack man in sight" at around 6:12 p.m. July 28.

An air traffic controller also reported, "Jetpack guy is back."

The FBI and Federal Aviation Administration are investigating this and three other similar reports, but so far have not been able to validate any of them.

### Did you know ...

Make sure hard hats are in good working condition



Hard hats should be properly maintained to ensure they can prevent injuries from falling objects and other hazards.

Source: Canadian Centre for Occupational Health and Safety

Hard hats exposed to heat, sunlight or chemicals may become chalky, dull or less flexible. If any of these signs appear, do not use and replace the hard hat immediately.

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