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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.

Overconfidence: When workers ignore safety in favor of their skills

■ Incident illustrates problem of too much confidence

As a safety pro, you want to see workers have a certain level of confidence in their job duties, but overconfidence – the kind that leads employees to think they can ignore safety rules – can cause trouble.

When workers are so overconfident in their skill level at a specific job task, they can easily make dangerous mistakes.

For example, a worker excavating a trench on a busy San Francisco street in February 2019 was so overconfident in his skill operating a backhoe that he failed to properly locate a gas line, which he struck, causing more than

\$10 million in damages.

Fortunately, no one was hurt in the explosion and fire that ensued.

2-story high flames

Kilford Engineering was contracted to excavate a trench 1,888 feet long on a San Francisco street so fiberoptic conduit could be installed.

The contractor was responsible for determining the location and depth of utilities before bringing in a small backhoe for excavation.

On Feb. 6, 2019, work began and hand shovels were used to uncover parts of the gas pipeline,

(Please see Overconfidence ... on Page 2)

PANDEMIC

Farm with COVID deaths agrees to \$2M settlement

A Washington State farm previously fined for COVID-19 violations that led to the deaths of two workers has reached a settlement with the state requiring it to invest more than \$2 million in safety, health and housing improvements.

Gebbers Farms was fined \$2,038,200 and \$13,200 following two inspections by the state's Department of Labor & Industries (L&I) in 2020 that found 24 egregious willful violations related to COVID-19 exposure.

Two farmworkers died from COVID-19 while living and working on the farm, and the investigations found a lack of adequate social distancing in living quarters and no barriers in place in the kitchens, according to an L&I news release.

Under the settlement, Gebbers must

make \$1.4 million in improvements to temporary worker housing and donate \$513,000 to area medical facilities to improve access to health care for its workers and their families.

Must hire full-time safety officer

Another \$150,000 must be invested in the hiring of a full-time safety officer for three years who will:

- oversee worker safety and health, including training and supervising current staff who develop and enforce the farm's safety program, and
- have the authority to stop any activity deemed unsafe or in violation of safety and health rules.

The fines against Gebbers will be reduced to \$10,000 in exchange for the farm making these investments.

TESTING

What to know about rapid COVID tests

While the federal government and professional groups continue to urge employers to encourage COVID vaccinations, other organizations are adding rapid testing to their arsenal against the virus.

Rapid antigen testing is quick and easy to administer.

Employers such as the federal government and Goldman Sachs are building the tests into their COVID-19 return-to-office policies.

Goldman Sachs' policy says unvaccinated employees are required to get a rapid tests and if a test comes back positive, they're asked to leave the building immediately.

Why test?

COVID-19 can be transmitted by people without symptoms. Health Canada reports rapid tests have helped to identify and stop the transmission of thousands of cases in Canada.

Workplaces in Canada using rapid testing found:

- most employers and workers felt

better protected and more secure, and

- they also found disruption due to the tests was minimal.

Most rapid tests are done with a nasal swab. The current tests don't require a deep nasal swab as some earlier tests did.

Results are ready in 15 to 20 minutes.

Overconfidence ...

(continued from Page 1)

but not any of the junctions.

The supervisor, who was also the backhoe operator, decided to use a spotter to help locate utilities while he began digging the trench with the backhoe, according to an investigation report by the National Transportation Safety Board (NTSB).

At one point, the supervisor was digging near one of the junctions, confident he knew where it was located, and struck one of the plastic pipes that hadn't been uncovered.

Flames shot out of the ground, extending two stories high and causing multiple structure fires.

There were no injuries, but the surrounding area had to be evacuated and the estimated damage to the pipeline and buildings exceeded \$10 million.

Should have followed rules

The supervisor was interviewed by investigators immediately following the incident, and he allegedly said he thought he had enough room to get the backhoe's bucket in without hitting anything, but he was wrong.

This incident could have been avoided if the supervisor had followed both his employer's safety rules and state requirements calling for existing utilities to be completely uncovered before using heavy excavation equipment.

Instead many people could have been hurt, millions of dollars of damage was done and Kilford may lose its contracting license with the state.

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.

■ DID INADEQUATE TRAINING ON MACHINE LEAD TO INJURY?

"All the important stuff for our vacation is already packed," Safety Manager Pete Travers said to his wife.

"Such as?" she asked.

"My gaming laptop, controller and headphones," Pete replied.

She gave him a stern look.

"Those are important to me," he said sheepishly.

Pete's phone rang.

"Hello John," Pete said to John Jenkins, the company attorney.

"You called at just the right time."

Didn't turn off power

"Sorry to disturb you at home, Pete, but OSHA is citing us," John said, trying to hide his confusion.

"No problem," Pete said. "What do you need to know?"

"Tell me about the incident with the worker who got his hand caught in the rebar bending machine," John said.

"Todd Ketchum is the worker's name," Pete said. "He was on a worksite bending and cutting rebar with that machine.

"The machine has cylinders the rebar is bent against, which need to be changed out, sometimes several times in a shift," Pete explained.

"You're supposed to shut the machine off when you change the cylinders, but Todd didn't do that," Pete added.

"Then we can fight this since it's a case of unpreventable employee misconduct," 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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ENFORCEMENT

Double fatality results in \$1.3M fine

■ OSHA HITS CONTRACTOR WITH CITATIONS AFTER DEATHS AT DIG SITE

OSHA fined a water utilities construction company \$1.3 million following the deaths of two workers at a Boston dig site.

Workers Jordy Alexander Castaneda Romero and Juan Carlos Figueroa Gutierrez died when a dump truck struck them both, pushing them into a nine-foot deep trench at a sewer repair site in Boston.

OSHA is accusing Atlantic Coast Utilities LLC/Advanced Utilities Inc., its predecessor company Shannon Construction, their owner Laurence Moloney and successor company, Sterling Excavation LLC, of multiple willful, repeat, serious and other-than-serious violations.

Egregious citation policy used

Because of the severity of the recent incident and the employer's history of violations, OSHA used its egregious citation policy, allowing the agency to propose separate penalties for each instance of a violation.

This led to a \$1,350,884 fine for

willful, repeat and serious violations, including failure to:

- train employees on recognition and avoidance of hazards
- protect employees from cave-ins by using adequate protective systems
- use support systems on sidewalks undermined during excavation
- ensure vehicles were properly repaired before placing them in service, and
- provide employees exposed to traffic hazards with high-visibility warning vests.

OSHA inspected Atlantic Coast Utilities six times and cited the company for 14 willful, repeat and serious violations prior to the fatal incident.

Those violations led to fines of \$81,242, of which \$73,542 was left unpaid.

Moloney and his companies ignored the citations and demands for abatement of the hazards, according to a Department of Labor news release.

The agency is also currently investigating a separate complaint of excavation hazards at the worksite of successor company Sterling Excavation.

COURT DECISION

Suit over injury from diabetic episode moves forward

Despite having already received workers' compensation, a teacher with diabetes can pursue a lawsuit against her employer for failing to accommodate her condition following a hypoglycemic episode that resulted in life-altering injuries.

The NJ Supreme Court found the teacher's workers' compensation claim was not related to the failure-to-accommodate lawsuit so it did not fall under the exclusive remedy provision.

Seizure, extensive injuries

Mary Richter was a science teacher employed by the Oakland Board of Education.

At the beginning of the 2012-13 school year, she found her schedule

had her eating lunch late in the day, attempted to reschedule it, but ultimately had to take glucose tablets to manage her diabetic condition.

One day, near the end of the period before her lunch, she had a seizure from a hypoglycemic event in front of her students, lost consciousness, struck her head on a table and the floor and suffered extensive injuries.

She filed a workers' comp claim and received benefits, and she also filed a lawsuit against the school for failure to accommodate her diabetic condition.

The court found Richter's comp benefits were not in conflict with her lawsuit, so the exclusive remedy provision didn't apply and her case could move forward.

TRENDS TO WATCH

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

■ EMPLOYERS NOW LIABLE FOR TAKE-HOME EXPOSURES

On Aug. 5, the Utah Supreme Court found that premises operators can be held liable for take-home exposure to asbestos dust.

Larry Boynton claimed he was exposed to asbestos while working at job sites during the 1960s and 1970s, and he sued the premises operators for indirectly exposing his wife to asbestos dust which was carried home on his clothes, allegedly leading to her death.

A trial court ruled that Kennecott and Conoco, two of the premises operators, had no duty to prevent this from happening, but the state Supreme Court reversed.

The court "broadly held that premises operators launch an instrument of harm whenever they affirmatively direct, require, or otherwise cause workers to come into contact with asbestos," according to law firm Michael Best & Friedrich.

This decision will allow more lawsuits against premises operators in Utah as "anyone living in the home at the time of the worker's alleged exposure, whether a family member or not" will be able to sue.

■ NEW MANDATE: MASKS MUST BE USED INDOORS

Beginning Aug. 13, 2021, Oregon will require everyone ages five and older in all indoor public spaces to wear masks regardless of vaccination status.

Oregon OSHA will enforce this in the workplace, but the agency announced it will "focus first on education, rather than inspections and fines," according to law firm Littler Mendelson.

A similar requirement for everyone two and older to wear masks on public transportation also remains in place.

Roundup of most recent OSHA citations

2 workers die from toxic fumes in confined space

A rail car services provider was hit with a \$419,000 OSHA fine following the deaths of two workers who inhaled toxic fumes.

One employee became unresponsive after entering a rail car to clean it, then a second employee entered to rescue their fallen co-worker and also succumbed to the toxic fumes inside.

Fine: \$419,347

Company: Trinity Rail Maintenance And Services, Hugo, OK

Business: Support activities for rail transportation

Reasons for fine:

Two willful violations for failure to:

- test conditions inside permit space to determine if acceptable entry conditions existed
- document completion of measures used for confined space entry on permit

18 serious violations, including failure to:

- identify and evaluate hazards of permit spaces
- properly maintain atmospheric testing equipment
- provide attendants outside permit space
- ensure employees were trained on all hazards of rail car entry
- establish rescue team member proficiency using rescue equipment

Machine explodes in maintenance tech's face

OSHA cited an Illinois manufacturer after a master maintenance technician suffered severe facial burns when pressurized material in a plastic molding machine exploded during servicing.

Inspectors found the company didn't have energy control procedures in place and failed to ensure employees used eye and face protection.

The company was cited for similar violations in 2019.

Fine: \$85,826

Company: North American Lighting, Paris, IL

Business: Lighting manufacturer

Reasons for fine:

Two repeat violations for failure to:

- conduct annual inspection of energy control procedures
- certify that periodic inspections of energy control procedures were performed

Four serious violations for failure to ensure:

- employees used appropriate eye or face protection when exposed to eye or face hazards
- energy control procedures clearly outlined steps for shutting down, isolating, blocking and securing machines to control hazardous energy
- energy control procedures clearly outlined requirements for testing machines to determine effectiveness of lockout/tagout devices
- employees isolated all energy sources in proper sequence

Complaint leads to \$1.2M fine for roofing contractor

A Washington roofing company with a history of violating safety standards was fined more than \$1.2 million for multiple repeat violations.

The Department of Labor & Industries (L&I) responded to complaints from the public about roofers working on tops of homes with no fall protection, leading to citations at three worksites.

Fine: \$1,242,807

Company: Allways Roofing, Snohomish, WA

Business: Roofing contractor

Reasons for fine:

12 willful violations, including failure to:

- ensure employees engaged in roofing activities had fall protection
- ensure ladders were set up and used correctly

Note: All but one of the 12 violations were repeats of previous safety issues at the company's job sites.

WORKERS' COMP DECISIONS

Can he collect despite degenerative condition?

A worker with a degenerative condition struck his head on a steel beam and was injured. Can he collect?

What happened: A mechanic

working at a mine was rushing to some machinery to make repairs when he struck his head on a steel beam. He was wearing a hard hat, but still suffered injuries and continuing pain to his jaw, neck and back when he was knocked to the ground.

Company's reaction: Your pain is from a degenerative disease and isn't work-related.

Decision: He could collect. Even though he had a degenerative disease, the court found the work injury was the major contributing factor to his medical issues.

Cite: *Utah American Energy Inc. v. Labor Commission*, UT Court of Appeals, No. 20190800-CA, 3/18/21.

Worker makes mistaken self diagnosis: Benefits?

A worker initially told his doctor he was injured running but later claimed the injury was work-related. Can he collect benefits?

What happened: A state trooper told his doctor he thought he injured his leg while jogging. However, his doctor claimed he had a back injury from job-related repetitive stress.

Company's reaction: You said you were injured jogging, so the injury isn't job related.

Decision: He could collect. There was sufficient medical evidence proving his injury was related to repetitive stress from getting in and out of his patrol car as well as running after suspects, according to the court.

Cite: *Stripling v. Dept. of Public Safety*, OK Court of Appeals, No. 118535, 4/7/21.

REAL PROBLEMS, REAL SOLUTIONS

Interpreting the multi-employer doctrine

What is the multi-employer worksite doctrine?

It depends on who you ask. OSHA's enforcement guidelines and policies under its compliance directive call it a worksite where more than one employer may be responsible for the same hazardous condition.

Essentially, a single OSHA violation can be attributable to the general contractor, the roofer, the plumber, the electrician – whoever might be on a particular worksite.

But it doesn't just apply to construction sites. It could work just as easily in manufacturing or other industries.

Where it gets complicated

A simple example could involve a paper mill that hires a vendor. The vendor comes onsite to deliver rolls of paper stock and somehow violates OSHA's material handling provisions.

The vendor is liable, but the paper mill could also be held liable under certain circumstances.

That's the multi-employer worksite doctrine. Simple, right? Now let's complicate things.

There are several different types of employers under the multi-employer worksite doctrine, and that's one of the complicated parts.

Creating employers

The first type is the creating employer. That's the one that creates the hazard.

In this example, the paper mill hires a vendor that arrives at the worksite and begins to stack materials in a way that violates OSHA regs and gets someone hurt.

So who created that hazard? The vendor did.

Exposing employers

How about an exposing employer? That's the employer whose employee was exposed to the harm.

Same situation in the paper mill. Let's say it's the mill's employee that gets hurt. In that scenario, even though the paper mill didn't stack the material,

one of its employees got hurt because they were exposed to the hazard.

And OSHA is capable of opening an investigation and looking into the paper mill as an exposing employer.

Correcting employers

Next is a correcting employer. That's when the employer is responsible for safety and health equipment or devices.

We'll tweak the mill scenario a little bit for this one.

The vendor is told by the mill manager to go stack the materials on specific racks. But there's something defective with the racks.

The racks fail – the safety device fails – so who had responsibility to maintain it? The paper mill. It's their equipment, their device.

So the correcting employer is responsible for maintaining the safety equipment.

Controlling employers

Finally, the most complicated of them all: the controlling employer.

A controlling employer according to OSHA is an entity that has general supervisory authority over a worksite.

Controlling employers have the authority to abate a hazard or compel others to abate a hazard.

The paper mill again. The vendor arrives and says, "I'm going to stack this right here."

The manager says, "No, go stack it over there."

He orders and instructs the vendor – because he has the authority – to stack all the materials in a specific place.

If what he orders the vendor to do turns out to be a violation, then the paper mill – the entity that gave the orders and controlled the manner in which the vendor carried out their work – could be liable as the controlling employer.

(Based on a presentation by Anthony Tilton, Attorney, Ausley McMullen, Tallahassee, Florida, at the 2021 NSC Congress & Expo)

TRAINING TIPS

Don't stand in front of trailer doors when opening

Truck drivers and other employees should never stand directly in front of a trailer's doors as they open them.

A recent incident in Washington State illustrates how dangerous this can be, as a driver was struck and killed by a 1,500-pound bale of cardboard when he opened the doors of his trailer.

He was an experienced driver who was actively involved in his company's safety program, according to the Washington State Department of Labor & Industries.

The bales were stacked three-high in the fully loaded trailer and had shifted in transit.

He opened the driver's side trailer door without incident, but when he opened the other door a bale became unstable and fell on him.

According to the coroner, the driver died of blunt force injuries to the torso.

Investigators found straps were provided to prevent bales from falling out, but drivers didn't use them. Also, the trailer was parked on uneven ground, which further destabilized the load.

Fatality drives home need for high-visibility vests

If the employees under your watch ever ask why they need to wear a high visibility vest this recent OSHA citation may help drive your point home.

Workers Jordy Alexander Castaneda Romero and Juan Carlos Figueroa Gutierrez died when a dump truck struck them both, pushing them into a nine-foot deep trench at a sewer repair site in Boston.

See the "double fatality" story on Page 3 for more details, but one of the violations OSHA found was the company didn't require employees to wear high-visibility vests.

CORONAVIRUS

OSHA updates COVID guidance based on latest CDC advice

Employers should take steps to protect fully vaccinated and unvaccinated workers against COVID-19 in the wake of the Delta variant spread, according to OSHA.

OSHA has released updated guidance based on a CDC July 27 release.

Preliminary evidence that fully vaccinated people can spread the Delta variant prompted the CDC's and OSHA's recent guidance.

Masks for fully vaccinated

OSHA recommends fully vaccinated workers in areas of substantial or high community transmission wear masks to protect unvaccinated workers and to reduce their risk of becoming infected themselves.

You can find whether the county where your facility is located is in an area of substantial or high community transmission on the CDC's COVID Data Tracker webpage. The webpage is updated every day at 8:00 pm EDT.

OSHA now also supports other CDC guidance, including:

- choosing to wear a mask regardless of transmission level, particularly if people are at risk or have someone in their household who is at increased risk of severe disease or

isn't fully vaccinated, and

- getting tested 3-5 days after an exposure to someone with COVID and wearing a mask in public indoor settings for 14 days after exposure or until a negative test result.

Prosecutor can investigate Amazon COVID response

New York State's attorney general can continue her investigation into whether Amazon prioritized profits over safety in connection with its actions regarding employees and COVID-19.

A U.S. district judge in Brooklyn rejected Amazon's attempt to stop Attorney General Letitia James' investigation, according to Reuters.

"The state has a legitimate interest in ensuring employers are complying with state labor laws, are enforcing health safety measures, and are sanctioned for illegal conduct that occurs within the state," the judge wrote.

Amazon argued federal laws pre-empted James' investigation.

A spokeswoman for Amazon said the company cares deeply about its employees' health and safety, and is proud of its pandemic response.

James sued Amazon in February in connection with the company's alleged treatment of thousands of workers at centers in Staten Island and Queens.

The attorney general accused Amazon of prioritizing profits over safety.

James claims Amazon improperly disciplined two employees who protected working conditions and fired one of them.

The attorney general seeks a court-appointed safety monitor for Amazon.

Companies in hot water over asbestos exposure

Three employers at Missouri's Bentonview Park Health & Rehabilitation Center have been accused by OSHA of exposing workers and residents at the nursing facility to asbestos.

Eastern Coast Management, SRZ Holdings and SRZ OP Bentonview failed to test for the presence of asbestos, didn't erect protective barriers and failed to use PPE to prevent exposure, according to OSHA.

They're facing a total of \$238,925 in fines.

SHARPEN YOUR JUDGMENT – THE DECISION

(see case on Page 2)

Yes, the company won when the court found OSHA cited it incorrectly.

OSHA cited the company under 1926.702(j)(1), the lockout/tagout provision of the Concrete and Masonry Construction standard, saying the worker was injured while performing maintenance to the machine, which was known as a Rod Chomper.

However, the court said the definition of "maintenance" in that standard didn't fit under the circumstances of this incident, so the citation was vacated.

One piece of evidence that came up during the trial was that the manual for the machine contained a clearly labeled warning stating the machine should be shut off

and the power locked out before the cylinders could be removed safely. But the injured worker never performed this important step because he didn't know it existed.

■ ANALYSIS: PROPER TRAINING ON EQUIPMENT USE

A prior decision in this case revealed the company didn't have adequate training on the Rod Chomper, despite having a general safety program.

When it comes to machines, safety pros know thorough and specific training is important to ensure operators stay safe while they do their work.

And safety pros also know it's important to always follow the manufacturers' instructions.

Cite: *Secretary of Labor v. Roy Rock*, Occupational Safety and Health Review Commission, No. 18-0068, 7/22/21. 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.

TRANSPORTATION

Hazardous materials shippers need to catch up on changes made by the Department of Transportation (DOT).

Every two years, the DOT's Pipeline and Hazardous Materials Safety Administration "harmonizes" Hazmat Regs (HMR) with international regs including Canada's.

DOT proposes dozens of changes related to:

- proper shipping names
- hazard classes
- packing groups
- special provisions
- air transport quantity limitations
- packaging authorizations, and
- vessel stowage requirements.

DOT anticipates an increase in the volume of lithium batteries (LBs) transported interstate for electric vehicles, prompting new requirements for LBs.

Comments are due by October 12.

WHISTLEBLOWER

The National Highway Traffic Safety Administration (NHTSA) has a new website meant to enhance the transparency of its whistleblower program.

The website will assist whistleblowers in deciding what information to provide to the NHTSA and how they should go about doing so, according to a news release.

A Notice of Proposed Rulemaking is being worked on to formalize the program, but potential whistleblowers can already provide information to the NHTSA without the rule being finalized.

Whistleblowers can report on a variety of topics, including:

- potential vehicle safety defects
- noncompliance with the Federal Motor Vehicle Safety Standards, and

- violations of the Vehicle Safety Act. Those who take part in the program have legal protection from retaliation and could receive a monetary award for original information that leads to successful resolution of an enforcement action, the agency states.

Info: nhtsa.gov/laws-regulations/whistleblower-program

TEMP WORKERS

The National Institute for Occupational Safety and Health (NIOSH) and American Staffing Association (ASA) have come together to help promote safety for temporary workers in the United States thanks to a new partnership announced July 19.

This is a five-year partnership agreement to encourage staffing companies and host employers to develop safety and health plans that effectively factor temporary workers into these programs.

Specifically, the two organizations will work together to:

- Advance research on the value occupational safety and health brings to businesses
- Explore potential areas for joint research to better understand and promote the safety and health of temporary workers
- Develop information on the recognition and prevention of workplace hazards and share that information with staffing companies, host employers and temporary workers through a variety of channels, and
- Promote research results and injury and illness prevention strategies among staffing companies and host employers to protect the safety and health of temporary workers.

NIOSH and ASA plan to initially work on a new set of recommended practices for host employers to better protect temporary workers.

The partnership agreement is in effect through January 2025.

WHERE TO GET HELP

OSHA, NIOSH REVISE SMALL BUSINESS HANDBOOK

The Small Business Safety and Health Handbook was recently revised in a joint effort by OSHA and the National Institute for Occupational Safety and Health (NIOSH).

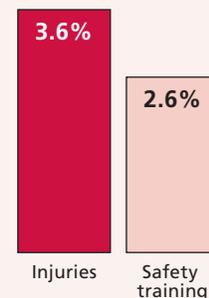
The handbook highlights the benefits of implementing an effective safety and health program, provides self-inspection checklists for employers to identify workplace hazards and review important workplace safety and health resources for small businesses, according to an OSHA news release.

Self-inspection checklists for various work processes in general industry workplaces are included, but are not intended for construction or maritime industries.

Info: osha.gov/news/newsreleases/trade/08032021

What safety officers told us

On average, what percentage of a construction company's budget is spent on injuries versus safety training?



Source: National Funding

OSHA estimates that construction companies save \$4 to \$6 for every \$1 invested in safety programs. And 55% of construction workers believe they need more safety training.

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

ANSWERS TO TOUGH SAFETY QUESTIONS

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

EXPERTS' SOLUTIONS

OSHA adopts CDC COVID-19 guidance: How does it impact masks at work?

Q: Do vaccinated employees have to wear masks again?

A: Since the Emergency Temporary Standard applies only to the healthcare and care services industry, OSHA uses its General Duty Clause to require employers to protect their employees from COVID-19, according to the law firm Constangy Brooks Smith & Prophete.

So, is OSHA recommending employers require masks for vaccinated workers or will OSHA use the GDC to enforce mask wearing?

It's unlikely OSHA wouldn't consider wearing masks as a feasible control measure to reduce the risk of employee exposure, according to the law firm.

Although OSHA has only issued guidance, employers should expect OSHA will consider masks as required in areas of substantial or high community transmission, according to the Constangy firm.

Extreme heat: How much shade is enough for workers?

Q: What kind of shade is acceptable for workers in extreme heat?

A: Acceptable shade blocks direct sunlight enough so that shadows aren't cast under it and it must allow the body to cool off, according to Washington State Department of Labor & Industries. It can be provided by natural or artificial means such as dense tree cover or tent-like canopies.

Shade must be provided in a way that doesn't expose

employees using it to unsafe or unhealthy conditions or deter or discourage its access or use.

If no shade is available, L&I says misting stations, air-conditioned trailers or other means that allow the body to cool off are also acceptable.

COVID-19 compliance: ETS isn't only standard to follow

Q: Can OSHA issue willful citations for COVID-19 violations?

A: Yes. OSHA issued two willful citations with proposed penalties of \$273,064 under its Respiratory Protection Standard to CHEMED, a medical treatment center, notes attorney William Wahoff of Steptoe & Johnson PLLC.

This should be an alarm bell for healthcare facilities, according to Wahoff, for three reasons.

First, OSHA used a standard other than the new Emergency Temporary Standard for COVID.

Second, citations like these were often issued as serious. Willful citations can carry 10 times the fine amount as those classified as serious.

Also, this case involves temporary employees.

Wahoff says healthcare facilities that have temporary workers required to wear respirators may be cited with willful respiratory protection violations, in addition to the agency that employs the workers.

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

OUTSIDE THE LINES

FALL PPE SHOULD BE WORN WHILE GHOST HUNTING

When you think fall protection it's typically roofing and construction you think about, right? What about ghost hunting?

A 35-year-old ghost hunter in Buffalo, NY, fell 15 to 20 feet while on a paranormal investigation inside a long-abandoned part of the Buffalo Central Terminal.

No joking on this one. She had to be taken to a hospital and treated for multiple injuries, according to *The Huffington Post*.

The building is in disrepair and the woman was on the property illegally, investigating high points of the building. Fall PPE really would have been a good idea.

A more legal and much safer alternative would have been going on one of the ghost tours regularly conducted in a refurbished area of the historic site.

Did you know ...

Follow the 20% rule in hot environments



Whether indoors or out, full intensity work should increase by only 20% a day until workers get used to the heat.

Source: OSHA

New and returning workers need to acclimatize to heat, so after the first 20% day, increase full intensity by no more than 20% a day until workers are used to the hot environment.

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