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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.

Tragic incident reveals why you should update your JSA now

■ *Old, undefined term leads to worker's death*

Have you reviewed your job safety analyses (JSA) recently? If not, consider doing it ASAP.

Why? Failing to catch outdated references in your JSAs could lead to tragedy, as a new National Transportation Safety Board (NTSB) investigation report demonstrates.

JSAs are important in helping workers identify and mitigate hazards for a specific task, but if they reference outdated terms, they could cause confusion for workers, resulting in injury or even death.

On April 24, 2018, a maintenance crew for Amtrak was servicing the

center track of a three-track station in Bowie, MD.

2 trains approach

Three watchmen were employed to perform train approach warnings following federal railroad regulations that required horns to sound the alarm to prevent workers from having to look for visual cues of danger.

But this was a busy train station, and at one point, two trains approached from different directions.

One watchman had his attention drawn to an incoming train near the curve opposite his position.

(Please see JSA updates ... on Page 2)

DRUG ABUSE

NSC: Employers must address workplace overdoses

Drug overdose deaths topped 100,000 during the pandemic, leading the National Safety Council (NSC) to turn this statistic into an "aggressive wake-up call" to motivate employers to take action for the health and safety of their workers.

The NSC identified the employer's role as a universal gap in addressing misuse of drugs, with 75% of employers being directly impacted, according to surveys conducted by the organization.

Centers for Disease Control and Prevention provisional data showed drug overdose deaths exceeded 100,000 – an average of 235 lives per day – between April 2020 and April 2021.

Drug overdoses have been viewed in the U.S. as a "tragic but unavoidable reality," the NSC states,

but that isn't the case and lives can be saved.

Resources

Of the 75% of employers directly impacted by drug overdose deaths, only 17% feel very confident they can address the problem effectively.

For the rest, NSC developed an employer toolkit and an eLearning course to help safety pros recognize and respond to workplace impairment.

- The training covers:
- the importance of recognizing and responding to impairment
 - supervisor responsibilities
 - common causes of impairment
 - signs and symptoms of impairment
 - prevention, and
 - laws and regulations.

Info: nsc.org/safety-training/workplace/impairment-training

RETALIATION

\$24K paid to driver with safety concerns

A Houston-based mobile crane rental company must pay a former employee almost \$24,000 in back wages, interest and damages after allegedly firing them for refusing to drive unsafely and ignore federal regulations on commercial driving time.

OSHA found the company, Crane Masters Inc., violated the Surface Transportation Act by retaliating against the employee in June 2020.

The employee refused orders to exceed the speed limit. They also worked 19 hours the day before and couldn't get required time off before returning to work, making it unsafe for them to drive, according to a Department of Labor news release.

'Shouldn't be put at risk for profit'

Following an investigation, OSHA ordered the company to pay the driver almost \$14,000 in back wages, interest and compensatory damages along with \$10,000 in punitive damages.

"Commercial truck drivers, mechanics and other workers are critical to our nation's transportation

infrastructure and our economy, but they should never be forced to put themselves or others at risk because of an employer's concern for profit, or fear of retaliation for exercising their legal rights," OSHA Regional Administrator Eric Harbin said in the news release.

JSA updates ...

(continued from Page 1)

He couldn't hear another train approaching him from behind, nor could he hear warnings from the other watchmen because the sounds of his own horn and the noise from the maintenance work drowned out everything else.

The train attempted to slow down and sounded its horn, but the watchman didn't hear it, and the train struck him at 98 mph, killing him instantly.

Undefined and outdated

Before work started that day, the watchmen and crew had a safety meeting covering the JSA performed for the job, and they all indicated they were aware of the hazards.

However, the JSA mentions the job as being in a "hot spot," a term Amtrak used to identify locations where additional on-track safety is required due to line-of-sight issues, work zone noise levels and obstructions.

The problem was Amtrak dropped all training on hot spots from its safety program in 2014 and all references to hot spots in its safety manual in 2017.

Further, the JSA failed to define the term or offer any additional guidance.

So the watchmen and maintenance crew didn't realize the JSA was telling them to take extra precautions on a job that was more hazardous than normal.

Amtrak has since reintroduced the term hot spot in its safety program and manual.

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.

■ CITATION RESULT OF OTHER EMPLOYER'S WORKERS?

Safety Manager Pete Travers was feeling sad.

A longtime co-worker and friend just retired, and Pete hated to see him go, despite being happy for him.

"I know how you feel," Attorney John Jenkins said. "But can you tell me more about this OSHA citation?"

City worker filed complaint

"One of our crews was replacing a manhole on a city street," Pete said.

"They had to dig a trench around the manhole and the pipe it led into, so the foreman, Dave Kingsly, tested the soil and decided to use timber shoring since the soil was unstable," Pete explained.

"Sounds good so far," John said.

"Yeah, he did what he was supposed to do," Pete said. "But then a city utilities crew showed up and had to shut down work briefly while they took care of a nearby gas line.

"According to Dave, the supervisor for the utilities crew told him our employees were exposed to trenching hazards as they installed the timber shoring," Pete explained. "Dave thinks he reported us to OSHA."

"Did he have reason to?" John asked.

"From what I understand, every required precaution was taken," Pete said. "If someone was in the trench, it could have been another contractor. There were others involved in the project."

"If that's the case, 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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PANDEMIC

COVID-19 impacts 2020 injury, illness data

■ STATS SHOW DRAMATIC EFFECT PANDEMIC HAD ON SAFETY

New Bureau of Labor Statistics (BLS) data reveal nonfatal workplace injuries and illnesses decreased in 2020, but the numbers for more severe cases involving days away from work increased.

There were 2.7 million nonfatal workplace injuries during 2020, which is down from the 2.8 million seen in 2019, resulting in a 5.7% decrease.

COVID-19 played a role in this, of course, “impacting workplace injuries and illnesses in a variety of ways, both positively and negatively,” according to a National Safety Council news release.

Impact of pandemic

The BLS report reveals there were fewer workplace injuries and illnesses, but more severe cases from more illnesses due to the coronavirus.

Out of the cases involving days away from work, 32% were categorized as other diseases due to viruses not elsewhere classified, including reported COVID-19 cases.

In fact, total reported illness cases “more than quadrupled” due to a whopping 4,000% increase in employer-reported respiratory illness cases.

There were 10,800 such illnesses in 2019. In 2020 there were 428,700.

Age not a factor

According to the NSC, before 2020, injury and illness trends involving days away from work by age group showed a clear increase in such cases for workers 55 and older.

But in 2020, all age groups saw an increase due to 390,020 COVID-19 cases, which represented 33% of all cases involving days away from work.

The BLS data also points to a shift in women experiencing “slightly more injury and illness involving days away from work than men.”

Women were represented twice as frequently as men in the illness category, which includes COVID-19. Men came in at 108,080 cases while women had 276,190.

That occurred for the first time ever in 2020.

LAWSUITS

Amazon settles with CA over COVID-19 allegations

Amazon reached a settlement with California over claims the company concealed the numbers of COVID-19 cases at facilities within the state from workers and local health officials.

The state accused Amazon of violating right-to-know laws regarding the coronavirus requiring companies to keep workers informed about the spread and prevention of COVID-19 at their facilities.

California’s Attorney General Rob Bonta said Amazon kept tens of thousands of warehouse workers and state agencies in the dark, leaving them unable to effectively track the spread of COVID-19, according to *Reuters*.

Amazon agreed to notify its

warehouse workers about the exact number of new COVID-19 cases in their workplaces within one day.

The company will also pay \$500,000 to help enforce state consumer protection laws.

Despite the settlement, Amazon didn’t admit any liability.

Still facing lawsuit in NY

The company is also facing a lawsuit filed by New York regarding its treatment of workers in that state during the pandemic.

New York is seeking a court-appointed safety monitor to keep tabs on Amazon’s treatment of workers.

In October, the company appealed a judge’s refusal to dismiss the lawsuit.

TRENDS TO WATCH

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

■ SAFETY REVIEW URGED AFTER 4 ELECTROCUTIONS

With four electrocutions in a five-month span in 2021 and a nationwide one-year increase of 3.75% in those fatalities in 2019, OSHA is urging employers in **Kansas and Missouri** to emphasize electrical safety.

OSHA is currently investigating four electrocutions that occurred in Kansas and Missouri between May and October of 2021, including:

- an Oct. 4 incident that saw a 40-year-old Missouri electrical contractor killed while replacing light fixtures
- the death of a 22-year-old Missouri worker who was killed Sept. 23 while cleaning a pig barn with a pressure washer
- a 41-year-old Kansas contractor doing heating and air conditioning work on July 13, and
- the death of an electrical contractor who was climbing a pole in Lawrence, Kansas.

■ TRAVELING EMPLOYEE DOCTRINE ADOPTED

The **Pennsylvania** Supreme Court recently adopted the “traveling employee doctrine,” which allows workers’ compensation benefits for employees injured during work-related travel.

In *Peters v. Workers’ Compensation Appeals Board*, the employee was a traveling salesman who spent much of his time in the field.

He was injured in a crash while returning home from a work-related event and filed a workers’ compensation claim, which was initially denied.

The state Supreme Court hadn’t directly covered the traveling employee doctrine in the past, so in its ruling it formally adopted the doctrine before remanding the case to a lower court for more fact finding.

Roundup of most recent OSHA citations

Fined following manager's death by engulfment

A Wisconsin grain facility was cited by OSHA after the engulfment death of a manager in a corn silo.

The manager was last seen clearing corn debris from the silo. Employees called 911 when they couldn't find him at the silo and after he didn't show up for a regularly scheduled meeting or answer his phone.

After nine hours of searching, emergency services recovered the body of the manager, who had been engulfed in the silo.

Fine: \$676,808

Company: Didion Milling, Cambria, WI

Business: Flour milling

Reasons for fine:

Four willful violations for failure to:

- ensure silo's mechanical equipment was deenergized during employee entry when such operations would pose hazards from grain movement
 - prohibit employees from being on moving grain when attempting to clear bottom discharge of silos
 - ensure observers were stationed outside silos during entry operations
 - prevent employees from entering silos where buildup of grain along sides presented engulfment hazards
- 10 serious violations, including failure to:*
- issue permits to enter silos for cleaning and inspection activities
 - prevent employees from standing in locations inside silos that could result in engulfment
 - provide equipment for rescue operations specifically suited for silos being entered
 - train employees on specific methods to safely perform silo cleaning tasks

Manufacturer fined \$136K for multiple hazards

A Georgia pharmaceuticals company was cited by OSHA for exposing its workers to more than a dozen hazards at its chemical manufacturing facility.

Inspectors issued multiple serious citations and a repeat citation to the company for the hazards found in the facility.

The inspection was conducted under OSHA's Regional Emphasis Program for Powered Industrial Trucks.

Fine: \$136,816 (\$93,122 for one citation, \$43,694 for another)

Company: HPPE LLC, Columbus, GA

Business: Pharmaceutical preparation manufacturing

Reasons for fine:

One repeat violation for failure to:

- provide employees with information and training on hazardous chemicals in their work area

21 serious violations, including failure to:

- develop and implement written permit space entry program
- use powered industrial trucks rated for use in atmospheres that could become hazardous
- provide employment free from recognized struck-by hazards likely to cause death or serious physical harm

2 dead from COVID, 2 hospitalized, 30 infected

OSHA cited a New Jersey pharmaceutical manufacturer for failing to protect workers from COVID-19, leading to two deaths, two hospitalizations and 30 coronavirus infections.

Inspectors, who had been notified about the illnesses by the company, found a failure to ensure physical distancing and face mask use in common areas.

Fine: \$13,653

Company: Avantor Fluid Handling LLC, Eatontown, NJ

Business: Fluid power valve and hose fitting manufacturing

Reasons for fine:

One serious violation for failure to:

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

WORKERS' COMP DECISIONS

Can worker with frostbite, depression collect benefits?

An airline worker got frostbite and lost the use of her hands while de-icing planes. Can she collect permanent total disability benefits?

What happened: The worker was de-icing planes in cold weather and had already lost feeling in her fingers when some of the de-icing fluid leaked into her gloves. Her fingers were frostbitten, and she lost use of her hands in most situations. She also claimed the injury led to severe depression.

Company's reaction: We'll provide temporary benefits for your fingers, but that's it since you have clearance to return to work.

Decision: She couldn't collect. The court found medical evidence supported the fact she could return to work and that her depression was related to other stress in her life, not the injury.

Cite: *Drahozal v. Envoy Air*, IA Court of Appeals, No. 20-0027, 4/28/21.

Fell over barrier she could've avoided: Benefits?

An administrative assistant tripped and fell over a chain barrier she could've avoided. Can she collect benefits?

What happened: Before the start of her shift, the assistant walked to another office to turn in her timecard and came across a chain barrier along the way. She fell and injured her right elbow while attempting to step over it.

Company's reaction: You weren't working when this happened.

Decision: She couldn't collect. The court found she was off duty at the time and that she could've avoided the barrier altogether.

Cite: *Purcell v. IL Workers' Comp Commission*, IL Court of Appeals, No. 4-20-0359WC, 4/27/21.

REAL PROBLEMS, REAL SOLUTIONS

Getting workers to speak up about safety

We had a location that was going well with safety.

Their stats were great! But then they started tanking. We didn't know what was causing this.

So we went to the facility and gathered people from all departments for a meeting.

It was important for employees to tell us themselves what was going wrong. But that's often difficult.

To get good feedback, especially when it might be negative, you have to make people feel safe enough to give that feedback.

What happens in Vegas ...

For that meeting, we invoked Las Vegas rules: What happens in Vegas stays in Vegas.

A document was drawn up that stated no individual employee would be named after the meeting when we spoke to management about their concerns.

Everyone signed the paper.

It turns out, the employees were doing a good job at reporting safety and other types of problems.

But the maintenance department was only fixing things that were related to production.

In a couple of departments where the work areas were particularly hot, fans had broken. People were trying to do their jobs, but they were uncomfortable and distracted.

This turned out to be a pattern: Because of production expectations, certain things didn't get fixed.

We took this back to management.

When management responded, it was a huge message to the workforce: They do care about us. They are listening to us.

We made it safe for the information to be passed along upstream by not connecting particular employees to it.

The final piece: Management communicated back to employees, saying, "This is what we heard you say, and this is what we did about it."

Closing the feedback loop was a very important part.

Now workers are more present –

they are less distracted.

And when workers are more present, there are fewer injuries.

(Based on a presentation by Sharon Kemerer, President, The Kemerer Group, Deerfield, IL, at the ASSP's September 2021 conference)

Ensuring wfh isn't a pain in the neck, or back

When work-from-home (wfh) started at the beginning of the pandemic, many employees assumed it was temporary.

That meant, if they had ergonomic problems with their wfh set-up, they didn't complain much.

Now we're having more complaints, injuries and workers' comp claims.

How do you support ergonomics when you aren't in the same place as the employee?

Just as you would do in the office, the goal is for employees to have neutral postures.

A lot of people are working on dining room tables and other furniture not meant for office use.

Some may think there's a catch-all solution: Get a sit-stand adjustable desk. But the reality is that most employees won't have access to one.

Here are some steps to take to alleviate these problems:

- If they're using a laptop, make sure they have a keyboard, mouse and monitor
- Make sure they have a good desk chair
- Encourage use of alternate work surfaces such as card tables, that will help them work at a better height
- Have them use stands if their laptop is their primary screen
- Suggest they use a standing-height counter, and
- Encourage them to build movement into their days.

(Based on a presentation by Jeremy Wilzbacher, Sr. Consultant, Aon, Lander, WY, at ASSP 2021)

TRAINING TIPS

Reporting woes? Tell them co-workers could get hurt

As a safety pro, you want employees to feel free to report injuries and hazards.

Some employees have no problem with this, while others either forget or feel uncomfortable making such reports.

OSHA requires employers to remind employees of their rights to report injuries and unsafe working conditions, but sometimes even that isn't enough to get some employees to open up.

Something that could help is to point out that failing to report an injury or hazard could lead to another employee getting injured or killed.

This might help a normally reluctant employee report a hazard or injury since they may now see it as looking out for their co-workers.

Make sure workers are aware of chemical hazards

Workers need to know about the hazardous chemicals they're exposed to and be provided with adequate protection against them.

That's whether those chemicals are immediately hazardous or have longer lasting effects that are a danger to health and wellbeing.

For example, OSHA recently cited a Connecticut aircraft parts manufacturer accused of failing to provide adequate protection against employee exposure to hexavalent chromium and cadmium – both known carcinogens.

Exposure to the toxic substances occurred during electroplating, mixing and preparing, and painting and paint removal processes on small aircraft parts.

One serious violation involved failing to train employees on the hazards posed by these chemicals.

COURT DECISION

Lead poisoning suit complicated by comp exclusivity provision

Workers' compensation acts in most states bar employees from suing their employers over work-related injuries and illnesses, but there are exceptions.

A recent case decided by the Utah Supreme Court demonstrates just how complicated exclusivity lawsuits can get, with the court finding it needed clarification on aspects of the lawsuit before it could move forward.

Unsafe levels of lead

Layne Kay worked in a variety of roles at Barnes Bullets, a bullet manufacturer based in Mona, UT.

For many years, a small portion of Barnes' bullets were made with scrap lead that was cut down into small pieces and then melted in an unsophisticated melting pot.

Between November 2012 and May 2013, Barnes purchased over 40,000 pounds of scrap lead, and Kay was assigned to melt the bulk of it.

In 2013, Barnes discovered its process produced unsafe levels of lead.

Poisoning leads to disability

At this point, Kay began to suffer from respiratory distress, tremors, chronic fatigue and a host of other ailments.

He was diagnosed with lead poisoning that left him permanently disabled and prevented him from performing even unskilled jobs.

Kay sued Barnes in April 2015, but the lawsuit was stayed while he pursued a workers' compensation claim, which led to a \$337,500 award.

Kay then pursued the lawsuit, which Barnes attempted to have dismissed under the exclusivity provision.

But Kay argued the provision didn't apply because the company didn't comply with safety regulations and intentionally poisoned him.

The Supreme Court remanded the case to a lower court to determine if it should fall under the Workers' Comp Act or the Occupational Disease Act.

Since the intentional-injury exception was never applied to an occupational disease claim, the Supreme Court declined to weigh in without that determination.

Fatal machine incident leads to \$1.7M fine

An Ohio aluminum parts manufacturer with a history of safety violations is facing a \$1.7 million fine

after a fatal incident.

The fine follows an investigation into the death of a worker struck and killed by a machine's barrier door.

OSHA claims the company allowed employees to bypass guard mechanisms in the door that prevented it from closing on them and that a malfunction in the door's optic control existed before the fatality.

Audits conducted by a third-party consultant identified specific machine guarding and lockout/tagout program deficiencies and provided recommendations that the company failed to fully implement.

Crane boom falls on highway, kills 2 in car

OSHA cited a Texas contractor who was installing supports for I-10 near Beaumont when the crane boom collapsed and killed two people passing by in a car below.

The contractor is accused of failing to assemble the crane boom properly.

Inspectors found the operator failed to determine the correct weight of the load, which caused the incorrectly assembled boom to buckle and fall.

SHARPEN YOUR JUDGMENT – THE DECISION

(see case on Page 2)

Pete's company lost when a judge found there was plenty of evidence its employees were working in an unsafe trench.

OSHA claimed the company knew employees were working in an unprotected trench, using photos it was given by the city utilities supervisor as evidence.

The company argued there was no way to tell that the employees in the photos were its employees since no faces could be seen.

However, testimony from the city utilities supervisor, who had worked on projects with the company foreman – actually the company owner in the real case – before, convinced the judge that the foreman was aware it was his crew that was in the trench.

Further, documentation of conditions recorded on the worksite that day indicated there were no other contractors on site, so the judge upheld the citation.

■ ANALYSIS: YOU NEVER KNOW WHO'S WATCHING

Safety pros know procedures and regulations are important to make sure everyone goes home safe and sound at the end of the work day.

However, some workers, supervisors and CEOs see those same things as nothing more than nuisances.

Sometimes it's helpful to let them know that, just as in this case, someone outside the company might be looking out for the safety of others and report unsafe acts to OSHA.

Cite: *Secretary of Labor v. Petrongolo Contractors*, Occupational Safety & Health Review Commission, No. 20-0786,9/28/21. 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

A previously authorized Trump administration rule allowing liquid natural gas (LNG) to be transported by rail is set to be temporarily suspended under new Pipeline and Hazardous Materials Safety Administration (PHMSA) rulemaking. PHMSA published a Notice of Proposed Rulemaking (NPRM) Nov. 8 for a temporary suspension of transport of LNG by rail in certain DOT113 specification rail tank cars.

The agency is specifically proposing to suspend the Trump administration's final rule while it conducts "a thorough evaluation" of the regulatory framework for rail transportation of LNG and determine if any modifications are necessary, according to law firm Hogan Lovells.

This NPRM came about due to increased uncertainty about safety and environmental risks of rail transportation of LNG under the Hazardous Materials Regulations.

PHMSA cites several information gaps – mostly concerning testing and evaluation of public and environment risk – as the reason for the temporary suspension.

The agency found this wouldn't have an adverse impact on serious reliance on transportation of LNG by rail since no transportation of LNG via rail tank car has occurred since the Trump administration's final rule went into effect August 2020.

SETTLEMENT

Smithfield Packaged Meats, one of the largest pork processors in the U.S., agreed to assemble a team of experts to develop an infectious disease preparedness plan following an OSHA citation for a COVID-19 outbreak at its Sioux Falls, SD, facility.

The company will bring together

in-house and third-party experts to develop a plan that will be implemented at all of its U.S. processing facilities.

Smithfield entered into a settlement agreement with OSHA following a March 2020 inspection that led to a citation under the General Duty Clause for failing to protect workers from COVID-19 hazards at its Sioux Falls plant.

The plant closed for 25 days in an effort to contain the COVID-19 outbreak, but "by June 16, 2020, 1,294 Smithfield workers had tested positive for COVID-19 and four died."

Smithfield must also pay \$13,494.

WHISTLEBLOWER

OSHA filed suit Nov. 17 against PACCAR Inc., doing business as Peterbilt Motor Co., to force the company to reinstate an employee who was allegedly fired for raising COVID-19 concerns at a Texas manufacturing plant.

The agency is asking the U.S. District Court for the Eastern District of Texas to order the company to reinstate the employee to his former position; pay back wages, interest, compensatory and punitive damages; and expunge his personnel record.

In March 2020, the employee told a supervisor of his concerns regarding exposure to COVID-19 at Peterbilt's Denton, TX, facility.

The employee was told the company planned to clean work spaces and continue work as usual.

When the company found out the employee expressed his concerns publicly about the company's response, Peterbilt fired the employee, according to a Department of Labor news release.

OSHA investigated the incident and found the employee was engaged in protected activity by raising his concerns about the coronavirus and that the company violated federal whistleblower protections, leading to the lawsuit.

WHERE TO GET HELP

■ YOU CAN REGISTER NOW FOR ASSP SAFETYFOCUS 2022

Registration is open for the American Society of Safety Professionals (ASSP) SafetyFOCUS 2022.

The event takes place in Phoenix from Feb. 21 to March 4 featuring online and in-person components.

This is ASSP's second-largest annual event, offering more than 65 occupational safety and health courses on a broad range of topics, according to a news release from the organization.

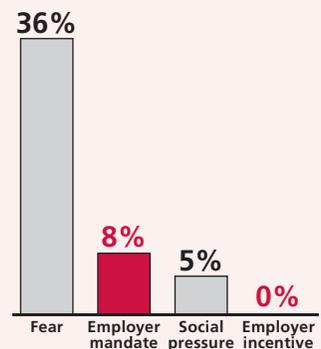
Areas of focus include:

- business and leadership skills
- certification preparation
- fall protection, and
- safety management systems.

Info: safetyfocus.assp.org/main-event/

What safety officers told us

What were the main reasons people got vaccinated for COVID-19?



Source: Kaiser Family Foundation nationwide poll of 1,519 people

Of those motivated by fear, 39% cited the Delta variant as their main concern, while 38% were concerned over reports of local hospitals and ICUs filling with COVID-19 cases.

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 answers tough questions about its COVID-19 vaccination emergency rule

Q: How does state law prohibiting employer COVID-19 vaccine mandates affect the federal emergency temporary standard (ETS)?

A: OSHA's COVID-19 vaccination ETS preempts any rules set forth by states or subdivisions of states.

The agency "intends for the ETS to preempt and invalidate any state or local requirements that ban or limit an employer's authority to require vaccination, face covering or testing," according to OSHA.

In short, once OSHA promulgates a federal standard addressing an occupational safety and health issue, a state can no longer regulate that issue except with the federal agency's approval and the authority of a federally-approved State Plan.

Do vaccine policies have to address mask, testing?

Q: Must mandatory COVID-19 vaccination policies address face coverings and testing requirements?

A: That depends on whether any employees are required to comply with the testing/face covering provisions required for an exemption or accommodation.

If there are any employees with an exemption or accommodation, then the employer will have to develop procedures for two sets of employees in the written policy, OSHA states.

The procedures applicable

to employees who are not fully vaccinated must include COVID-19 testing and face covering use.

How are multi-employer sites and temp workers counted?

Q: If I'm a general contractor in charge of a multi-employer worksite, or if I use temporary workers from a temp agency, do I only count my employees or all employees?

A: Multi-employer worksites, such as in construction, would require each company to count its own employees, so no need for a general contractor to count the workers of subcontractors.

However, each employer must count the total number of workers it employs regardless of where they report for work on a particular day. So if a general contractor has more than 100 employees spread out over multiple construction sites, that employer would still have to count all of those employees and comply with the ETS.

For employees of a staffing agency working at a host employer location, only the staffing agency would count these jointly employed workers.

But temporary/seasonal workers employed directly by the employer are counted, provided they are employed at any point while the ETS is in effect, according to OSHA.

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

OUTSIDE THE LINES

■ GROUND CONTROL TO MAJOR ... SNOOPY?

PPE is important in many workplaces, and especially so for astronauts entering the hostile environment that is space.

Space is so hostile that even plush toys must wear NASA-required PPE when taking a trip outside of Earth's atmosphere.

This is highlighted by the fact that a 5-ounce plush Snoopy – the daydreaming beagle from Charles Schulz's "Peanuts" comic strip – will be wearing a real, albeit scaled down, version of a spacesuit while taking a trip on a new rocket in 2022 that's designed to launch humans to the moon, Mars and beyond, according to the *Associated Press*.

This is all part of a zero-gravity test requiring a soft object that won't damage sensitive equipment.

Even the plush toy is made from NASA-approved materials.

Did you know ...

Workers must be medically cleared to use certain respirators



Before an employee can wear certain types of respirators they must receive medical clearance.

Source: OSHA

Many employers across multiple industries were cited throughout the pandemic for failing to ensure workers were medically fit to wear respirators before requiring use.

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