

# SafetyAlert

FOR SUPERVISORS *The No. 1 source of actionable information to help supervisors keep their people safe*



## In this issue

### 2 You Make The Call

*Was lockout needed if machine couldn't be started unexpectedly?*

### 3 Quick Ideas

*People laboring inside during the winter should drink plenty of fluids.*

### 3 Mistakes That Hurt

*Unguarded opening on machine leads to staffer's finger amputation injury.*

### 4 Legal Developments

*Should man who turned down light-duty job offer still get workers' comp?*

### 4 Horror Stories

*Energized line kills man known as an "animal" in the weight room.*

## Managers failed to enforce safety policy; worker dead

*Two previous fatal incidents not enough to prevent third death*

### Incident summary

Despite two previous fatal incidents, an employer still allowed crew members to stand on the back steps of refuse collection trucks while the vehicles were traveling in reverse. The result was the tragic death of a third worker.

### What happened

The operator of a refuse collection truck needed to back his vehicle into a cul-de-sac in order to pick up household waste. However, a lawn service truck and a sport utility vehicle were parked on each side of the street, so there wasn't much room for error.

Before the truck began to

move in reverse, two refuse collectors jumped onto the riding steps on each side of the truck's rear, even though the steps weren't supposed to be used when the vehicle was traveling backward.

As the driver maneuvered the vehicle in reverse, the mirror on the right side of the truck contacted the lawn service truck and broke off. Nevertheless, the driver continued to back up the vehicle, even though he couldn't see anything on the right side.

The driver continued to back up until the vehicle struck the lawn service truck. As the refuse truck pulled away, the worker

standing on the back right step fell to the ground, then was run over by the collection truck.

A crew member dialed 9-1-1, but the victim died on the way to the hospital.

### Findings

In the 10 years prior to the incident, the employer had suffered two fatalities involving workers using the back steps of refuse trucks.

As a result, managers had developed a policy forbidding staffers from using the back steps while refuse collection trucks were traveling in reverse, but the policy was rarely, if ever, enforced by supervisors.

## After woman voices concerns about hazard, boss says 'stop complaining'

*Employer says injured staffer shouldn't get comp because she violated a work rule*

"I just don't understand how Barbara could be entitled to workers' comp benefits for her hand injury," said Martin, the supervisor. "She intentionally violated one of our key safety rules."

"Well, Barbara says she got hurt while she was on the clock, so she's eligible for comp benefits," replied Danielle, the plant manager. "In fact, she's applied for

comp, and we're thinking about challenging her claim. What safety rule did Barbara run afoul of?"

"She failed to maintain a clear path while operating a walk-behind forklift," said Martin. "Barbara has worked here for 17 years, and she knows about that rule."

### Cluttered space

"According to Barbara," replied Danielle, "the work

area was cluttered with all kinds of stuff strewn everywhere. Is that correct?"

"On the day Barbara was injured, there were three or four large metal crates blocking most of the aisleway," said Martin. "I'm pretty sure the crates were too heavy for Barbara to move with her vehicle."

"Were those extra crates where they were supposed to be?" asked Danielle.

"Well, no," said Martin.

"Did Barbara tell anyone they weren't supposed to be there?" asked Danielle.

### Misplaced crates

"As a matter of fact," replied Martin, "Barbara says she told her boss about the misplaced metal crates, but she was told to just get the work done and to stop complaining. So Barbara

(Please see 'Stop complaining' ... on p. 2)

# 'Stop complaining' ...

(continued from p. 1)

positioned one pallet of material on the shelf near the metal crates and successfully backed out her vehicle. She was able to reposition two pallets prior to getting hurt."

"So how did she suffer her injury?" asked Danielle.

## Not going to make it

"Barbara was moving another pallet when she took a few steps toward the metal crate and began to make a left turn when she realized that she wasn't going to make it," said Martin. "She put her left hand against the metal crate, used her right hand to move the vehicle handle to the stop position and tried to get out of the way. While she

was looking toward the crate and away from the truck, the vehicle rolled, pushing her left hand into the metal crate."

## Challenge the claim

"It's unfortunate that Barbara got hurt," said Martin, "but, like I said, she failed to maintain a clear path at all times in violation of our work rule. We should challenge her comp claim."

**Result:** The company lost. A workers' comp appeals board awarded benefits to the woman, and the board's ruling was upheld by a court.

The appeals board and the court ruled that the woman wasn't violating a safety rule as much as she

was just trying to get the work done. The court also noted that the woman had twice successfully navigated the tight space before suffering her injury, so there was evidence that there was, in fact, a clear path available to her.

## Following instructions

The judge also pointed out that the woman had notified her boss about the tight space, but she was told to get the job done. Based on that response, the woman could hardly be accused of violating a safety rule when she was, in fact, simply following her boss's instructions.

*Klockner Pentaplast of America v. Miller.*

## What it means to you

Don't forget the importance of responding promptly when someone alerts you to a potential hazard. Here, the supervisor was told about a cluttered aisleway, but the manager failed to address the problem and, worse, told the woman to get the job done and stop complaining.

Not only did the boss's response lead to a costly injury, but it also sent the wrong message to the whole crew, which probably assumed that the manager didn't really care about the potential safety hazard.

If you think that a crew member has alerted you to a legitimate safety problem, take immediate steps to resolve the situation. Also be sure that everyone knows you responded promptly to the worker's concerns.

## You make the call

### Did staffer clearing jam need to lock out device?

"You have an active imagination," said George, the supervisor. "For instance, you're imagining a hazardous condition that doesn't even exist."

"I disagree," said Tammy, the compliance officer. "You had a machine operator clearing a jam without first locking out power to the device. That's a violation of our lockout/tagout rule, so I'm citing you."

"It sounds like you don't understand your own regulations," replied George. "Correct me if I'm wrong, but

doesn't the lockout rule only apply when the equipment could be started unexpectedly?"

"That's correct," said Tammy.

"Well, in this case, there's no chance of an unexpected machine startup," said George.

"How so?" asked Tammy.

#### Only two people

"We have only two people working with that machine at the same time," said George.

"Both staffers know where the other one is, so there's no chance that

someone could unexpectedly start the device with a colleague in the danger zone."

"Yes, under ideal circumstances, each worker would know what the other is doing," said Tammy, "but you have a bustling workplace with lots of noise and distractions. Someone could be inattentive and start the machine with his or her coworker still clearing the jam."

"Like I said," replied George, "you have an active imagination. We'll challenge your fine."

Did the company win?

■ *Make your call, then please turn to page 4 for the court's ruling.*

## SafetyAlert

FOR SUPERVISORS

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## quick ideas

### Indoor workers should drink plenty of fluids

Protect people working indoors from dehydration during the winter months by reminding them to drink plenty of fluids.

### Spotting the warning signs of sleep disorder

Do any of your staffers suffer from a sleep disorder? You can find out by asking them whether they spend seven to nine hours in bed but still

- consistently take 30 or more minutes to fall asleep
- consistently awaken several times during sleep, or for long periods of time
- take frequent naps
- often feel sleepy, usually at inappropriate times

Crew members who experience any of these symptoms should talk to a doctor because they could have a sleep disorder.

### Staffers most at risk for vibration injuries

Keep in mind that certain workers are at higher risk for hand-arm vibration syndrome. For instance, people with underlying diseases such as scleroderma, rheumatoid arthritis and lupus are more likely to develop the debilitating condition.

Key: Encourage crew members to let you know whether they suffer from any of these conditions. If they do, try to assign them to tasks that don't involve exposure to vibration.

### How to safely position items on storage racks

When loading storage racks, crew members should know to place heavy and bulky items close the floor, with lighter and smaller objects stored higher.

Employees should also position the items securely on the shelves or the racks so they won't fall, and they should be aware of vibrating equipment in the area that could cause materials to tumble off.

Bonus: Ask staffers to keep an eye out for rust buildup, damage, or loose fastenings that could compromise the integrity of the racks. And they should report problems right away.



## safety news for supervisors

### Another reason for you to discipline employees using their cell phones

Don't hesitate to discipline workers using their cell phones while handling potentially dangerous tasks. By doing so, you'll avoid the plight now faced by the City of Winston-Salem, NC.

The city has been slapped with a \$7,000 fine by the state's Division of Occupational Safety and Health (DOSH) as a result of a June 2021 fatal incident at the city's Hanes Mill Road landfill.

A city employee was talking on his cell phone while operating a bulldozer at the landfill when the equipment struck a contractor and fatally pinned him

between the bulldozer and a truck.

The DOSH found out that the city employee operating the bulldozer had been disciplined for three previous careless and reckless incidents within the five months prior to the fatality, but he wasn't provided with mandatory refresher training.

Investigators also said that the bulldozer involved in the fatality didn't have side mirrors, so it was difficult for drivers to identify pedestrians or other objects located behind the bulldozer.

### Big expansion of law intended to protect safety whistleblowers

Keep in mind the importance of responding

promptly to crew members who raise safety concerns. Otherwise, you could run afoul of significantly expanded whistleblower-protection laws.

For instance, New York Gov. Kathy Hochul (D) just signed amendments to the state's whistleblower law that'll make it easier for employees reporting alleged safety problems to gain legal safeguards.

The amendments dramatically expand the scope of behavior that's protected from retaliation. Now a worker is covered if he or she "reasonably believes" that a safety infraction was illegal; previously, the infraction had to be actually illegal for the person to qualify for protection.

## Mistakes that hurt

### Unguarded opening leads to amputation

Remember: All openings on hazardous equipment through which employees could potentially access moving machine parts must be properly guarded in order to prevent injuries.

**Company:** iSpice Foods, Jackson, AL.

**Business:** Food processing.

**Agency:** Occupational Safety and Health Administration.

**Fine:** \$146,751 (proposed).

**Reason for fine:** Workers were operating a dangerous machine through a side opening that wasn't adequately guarded.

**Note:** The employer earned unwanted scrutiny after a worker suffered a partial finger amputation when he was reaching through the side opening and the device cycled without warning.

### Burned electrical outlet stayed in use

If a member of your crew noticed a damaged electrical cord or an electrical outlet with burn marks, would he or she remove the broken component from service right away? If you're not sure, now might be a good time to remind staffers of the value of inspecting electrical equipment before using it.

**Company:** Compass Resources, Kansas City, MO.

**Business:** Contractor.

**Agency:** OSHA.

**Fine:** \$223,329 (proposed).

**Reason for fine:** Two electrical outlets with burn marks were kept in service.

**Note:** Inspectors also said the company failed to train workers to spot electrical hazards. Trained staffers would've removed the damaged outlets from service.



## legal developments

### Staffer turns down light-duty job assignment, seeks comp

**Safety insight:** Don't forget that light-duty job assignments offered to injured crew members must also permit hurt workers to attend physical therapy sessions or take part in other rehabilitative procedures that could help speed their recoveries.

**What happened:** A man was removing shavings from a machine when the equipment activated and trapped his arm. He suffered a severe laceration injury that prevented him from operating equipment until his injury healed.

**What people did:** The employer offered a light-

duty job assignment to the injured worker. However, he rejected the offer because the work hours prevented him from attending the physical therapy sessions recommended by his doctor for treatment of his arm. He applied for workers' comp.

**Legal challenge:** The employer fought the comp claim, contending that the injured crew member wasn't entitled to comp because he turned down a viable light-duty job offer.

**Result:** The company lost. A workers' comp appeals board said the man was eligible for benefits, and a court upheld the board's

decision. The judge said the worker could only be denied benefits if the employer offered him a suitable light-duty assignment. However, the court said the staffer needed to attend physical therapy sessions, but the company failed to provide him with a light-duty assignment that allowed him to also participate in physical therapy.

**The skinny:** Courts usually rule against companies that don't make every effort to ensure their light-duty job offers also allow injured staffers to do what's needed in order to get back to work.

**Citation:** *State ex rel. Kelly Services, Inc. v. McGrue*, Court of Appeals of Ohio, No. 19AP-362, 6/8/21.

### You make the call: The decision

(See case on page 2)

No. The company lost. An administrative law judge working for the Occupational Safety and Health Administration (OSHA) Review Commission refused to overturn the citation.

The judge decided that OSHA's lockout/tagout rule applied to the specific circumstances of the case, despite the employer's argument that no one could activate the machine without knowing whether a coworker was in harm's way.

The judge pointed out that in a bustling, busy and confusing workplace, it's not hard for employees to become distracted and make mistakes. That's exactly why OSHA's lockout/tagout rule was developed: To help avoid injuries caused by human error.

#### What it means: Staffers must follow procedures

There's little doubt that it can be a hassle for machine operators to deenergize machines every time there's a jam. However, as this case illustrates, it's critically important for staffers to follow lockout/tagout procedures while removing jams from moving machine parts.

Bottom line: If equipment hasn't been deenergized, a distracted coworker might inadvertently turn on the device and cause an injury that leads to an amputation injury – or worse.

*Based on Secretary of Labor v. Midvale Paper Box Co.*



## horror stories

### Man who could 'squat a semi' felled by energized power line

#### Summary

A weightlifting fanatic who could dazzle people in the weight room was no match for an electrical power line that unexpectedly energized while he was holding it.

#### The incident

After receiving a notification that a power line had gone out near Miesfeld's Meat Market in Sheboygan, WI, a four-person work crew employed by Alliant Energy was dispatched to the site in order to restore power.

The crew arrived and discovered that an excavator had nicked a power line

inside a trench. A member of the work crew disconnected a fuse from a nearby transformer and the men descended into the trench. One crew member, Keith Menke, positioned himself at the west side of the excavation.

But as Menke was handling the damaged electrical line, a backup generator unexpectedly activated the power line and reenergized it.

Menke let out a blood-curdling scream, stiffened and fell onto a coworker.

#### The response

The other staffers were able to disengage Menke from

the power line, and one of them began to administer CPR to his stricken colleague.

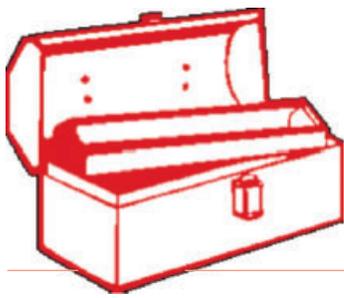
However, Menke's injuries were too severe, and he was soon declared dead.

#### The aftermath

Menke, 58, of Sheboygan Falls, WI, had worked for the Sheboygan Falls Public Works Department for many years. One friend said he was an "animal" in the weight room because he could "bench a house and squat a semi."

Others said he was a gentle giant who was also quiet and loyal. He left behind a wife of 35 years.

"You were so kind and sweet," said one friend. "It was a pleasure knowing you. You are going to be missed, Keith."



# Supervisor's safety toolbox

## Safety meeting blueprint

✓ **Meeting Topic:** Chemical safety

✓ **Today's Date:** \_\_\_\_\_

✓ **Attendee Signatures:**

_____	_____
_____	_____
_____	_____

**S**ure, you don't need an advanced degree to know that chemicals can be dangerous. That's pretty obvious, isn't it?

But not everyone might be aware that the biggest threat while handling a chemical is the potential inhalation of toxic fumes.

Consider that between 2011 and 2017, 297 U.S. employees died from chemical-fume inhalation.

And the dangers from chemical inhalation are even higher inside confined spaces.

For instance, 37% of the fatal chemical incidents that happened between 2011 and 2017 involved a confined space.

### Understand the risks

One of the most important considerations when working with a hazardous chemical is that you understand the risks posed by the substance. That's why you should always read the label and examine the safety data sheet for each chemical.

If you don't see a legible label on a substance's

container, don't use it. Also let your supervisor know about the missing label.

The safety data sheet provides you with valuable information about the hazards of the substance and the steps you can take in order to stay safe.

### Intimately familiar

Whenever you're working with a chemical, never underestimate the risks, even if you're intimately familiar with the substance and the work environment.

That means you should never smell a chemical to identify it.

*(What other activities should we avoid whenever we're working with a dangerous chemical?)*

You also shouldn't eat, drink, or smoke, or store food or apply cosmetics in any area where chemicals are being used.

After handling a chemical, wash your hands frequently and thoroughly, especially before eating.

And you should never leave an ongoing chemical reaction unattended.

Personal protective equipment is essential when working with a hazardous chemical.

At a minimum, you should wear a long-sleeved shirt and long pants. You should also put on safety goggles in order to prevent injuries from chemical splashes.

### Leave the work area

If you begin to experience dizziness, lightheadedness, nausea, or a headache while working with a chemical, leave the work area immediately and get some fresh air. And you should be doubly cautious if you're working with a substance in a confined space. It's a good idea to periodically step out of the confined space, even if you feel OK.

And when you're done using a chemical, be sure to store it in a cool, well-ventilated area that's away from potential heat and ignition sources.

Thanks for your attention. And remember, let's stay safe out there!

*(See next page for test)*

## Tailgate talk

Today's Subject:

### Trauma disorder

Date: \_\_\_\_\_

While strains and sprains are a part of life for almost everyone, they can sometimes turn into a more serious condition called cumulative trauma disorder (CTD), which can cause considerable pain and discomfort.

CTD, which can affect the wrists, arms, shoulders, or back, usually happens when we're continually working in awkward positions.

### What to focus on

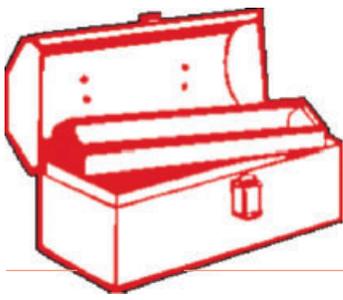
Here are four things to keep in mind in order to lower the chances of developing CTD.

**1. Try to avoid awkward postures.** Before beginning a job that could require you to assume an awkward position, work with your supervisor to figure out a way to make the task less physically stressful.

**2. Change your work position.** From time to time, rotate your work position to vary the manner in which your muscles are used.

**3. Take frequent breaks.** Don't underestimate the importance of taking frequent rest breaks while performing tasks that require awkward postures.

**4. Put on safety gear.** You might be able to reduce the effects of awkward positions and postures by wearing anti-shock gloves, back supports, or wrist supports.



# Supervisor's safety toolbox

## Safety meeting blueprint: Test your knowledge

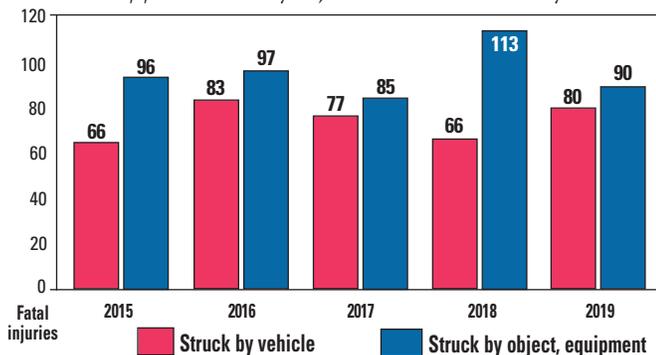
### Meeting Topic: Chemical safety

- |  |   |   |  |
|--|---|---|--|
| <p><b>1. Between 2011 and 2017, how many U.S. workers died from the inhalation of chemical fumes?</b></p> <p>a. 29<br/>b. 297<br/>c. 2,970<br/>d. 29,700</p>   | <p><b>label and</b></p> <p>a. Text your spouse to say you'll be home late<br/>b. Tell your coworkers what you're doing<br/>c. Examine the safety data sheet<br/>d. None of the above</p>            | <p><b>when you're handling a chemical substance?</b></p> <p>a. Sandals<br/>b. Short pants<br/>c. A long-sleeved shirt<br/>d. Any of the above</p>   | <p><b>handling chemicals?</b></p> <p>a. Eat<br/>b. Drink<br/>c. Smoke<br/>d. All of the above</p>  |
| <p><b>2. One of the most important considerations when handling a hazardous chemical is that</b></p> <p>a. You understand the risks posed by the substance<br/>b. You can pronounce the name of the substance<br/>c. Your boss knows that you're busy working<br/>d. None of the above</p> | <p><b>4. The dangers from chemical inhalation are even higher when you're working</b></p> <p>a. At an elevated location<br/>b. Inside a confined space<br/>c. Outdoors<br/>d. None of the above</p> | <p><b>7. Which of the following types of personal protective equipment should you always have on hand when working with a chemical?</b></p> <p>a. Earplugs<br/>b. Safety goggles<br/>c. A hard hat<br/>d. None of the above</p> | <p><b>10. Between 2011 and 2017, what percentage of fatal chemical inhalation incidents occurred inside confined spaces?</b></p> <p>a. 17%<br/>b. 27%<br/>c. 37%<br/>d. 47%</p>                        |
| <p><b>3. Before handling a hazardous chemical, you should always read the</b></p>  | <p><b>5. After you're done using a chemical, you should store it in a cool, well-ventilated area. True or False?</b></p>  | <p><b>8. If you can't otherwise identify an unknown chemical, it's OK to smell it. True or False?</b></p>   | <p><b>11. Which of the following is an indication that you could be inhaling a hazardous chemical?</b></p> <p>a. Lightheadedness<br/>b. Euphoria<br/>c. High energy levels<br/>d. All of the above</p> |
| <p><b>6. What should you wear</b></p>  |   | <p><b>9. Which of the following should you <u>not</u> do when</b></p>   |  |

## Did you know?

### Always pay attention to potential overhead hazards

Number of fatal struck-by injuries in construction by source



Don't ignore potential overhead hazards. New data has revealed that many fatal struck-by injuries in the construction industry involve contact with objects or equipment, most often materials falling from overhead.

Source: The Center for Construction Research and Training

## Test your knowledge: The answers

- |   |   |
|---|---|
| <p>1. b. Away from heat and ignition sources.</p>   | <p>1. b. chemicals are stored</p>   |
| <p>2. a. Never work with a substance unless you're familiar with the danger it poses.</p>       | <p>2. a. True. Also make sure</p>   |
| <p>3. c. The safety data sheet alerts you to the risks of the chemical.</p>                     | <p>3. c. The safety data sheet alerts you to the risks of the chemical.</p>                     |
| <p>4. b. That's why you should periodically step out of the space even if you feel OK.</p>      | <p>4. b. That's why you should periodically step out of the space even if you feel OK.</p>      |
| <p>5. True. Never smell a chemical in order to identify it. Instead, look at the label.</p>     | <p>5. True. Never smell a chemical in order to identify it. Instead, look at the label.</p>     |
| <p>6. c. Goggles help prevent injuries from chemical splashes.</p>                              | <p>6. c. Goggles help prevent injuries from chemical splashes.</p>                              |
| <p>7. b. False. Never smell a chemical in order to identify it. Instead, look at the label.</p> | <p>7. b. False. Never smell a chemical in order to identify it. Instead, look at the label.</p> |
| <p>8. False. Never smell a chemical in order to identify it. Instead, look at the label.</p>    | <p>8. False. Never smell a chemical in order to identify it. Instead, look at the label.</p>    |
| <p>9. d. None of the above</p>  | <p>9. d. None of the above</p>  |
| <p>10. c. 37%</p>   | <p>10. c. 37%</p>   |
| <p>11. a. Lightheadedness</p>   | <p>11. a. Lightheadedness</p>   |