



National Safety
Management
Society

DIGEST

Updating Members on Safety Management News

September 2008

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Welcoming Our New 2008 NSMS Members

On behalf NSMS President Roosevelt, the NSMS Executive Committee and the NSMS Board of Directors, we like to thank all members who have proactively renewed their 2008 membership to the National Safety Management Society. We would also like to acknowledge and welcome the following new member(s) to our Society:

- **Dr. Steve L. Unruh**, Health, Safety & Environment (HSE) Coordinator in Iraq – KBR Inc.[a global engineering, construction and services company supporting the energy, petrochemicals, government services and civil infrastructure] – Houston, Texas.

We appreciate your interest in furthering your skills, knowledge and abilities in the management of safety and risks, as well as your interest to networking and professional development. Welcome again to NSMS!

Election is Underway for NSMS Board of Directors Openings

Nominations have been received and we appreciate our members' interest and commitment to help serve on the Board and contribute to the Society's growth and needs of our membership. This leadership role is critical to help chart the strategic direction for our Society and address members' professional development. The electronic ballots have been emailed to all current dues-paying members in this month. Please complete your voting before the end of September, 2008.

SPECIAL ADVANCED ANNOUNCEMENT:

Planning is Underway . . .

**NATIONAL SAFETY MANAGEMENT SOCIETY
Special Professional Development Program
Tentatively – February 2009
New Orleans, Louisiana
Houston Texas**

“Enhancing Safety Stewardship: Regulatory Update, Best Practices and Leadership Development”

Due to the hurricane season, NSMS goal of hosting a regional workshop is being rescheduled for early 2009. Please join the National Safety Management Society for a **Regional Safety Program** tentatively planned for the New Orleans LA/Houston TX. Based on interest and demand, this event is spearheaded by NSMS President Roosevelt Smith and is geared toward broadening the safety skills, knowledge and abilities of front line supervisors, managers and administrators in developing, implementing, evaluating and improving programs for worker safety, security, compliance and environmental protection in onshore and offshore oil and gas operations, as well as general industry. More details to come.

Conference Registration Fee: (includes lunch and program materials).

The NSMS “Blog” is Here

Steve Geigle has created and launched the “NSMS Blog” on the NSMS website. It will allow members and others to post comments, remarks and initiate discussions about a variety of safety management topics and issues. You can participate in the Blog by going to the NSMS website (<http://nsms.us>) and look for the link on the home page along the left-hand column of navigation areas.

FREE ACCESS: Online Certified Safety and Health Manager (CSHM) Educational and Exam Preparation Reference Materials

As a benefit for our current and future dues-paying members, NSMS is **permanently** offering free access to the Certified Safety and Health Manager (CSHM) preparation and educational materials. The online resources, created by NSMS member Steve Geigle, can be found at www.cshmprep.com and the only action an NSMS member needs to take is to email Steve requesting access from that website. You will need to include your current NSMS member number (found on your membership card and certificate). Once the number is verified, you will be granted a username and password to access the online reference materials. This is a great opportunity to brush up on your safety management and technical knowledge and prepare for a successful passing of the CSHM certification examination.

OSHA Has Notified Workplaces with High Injury and Illness Rates

The Assistant Secretary of Labor for Occupational Safety and Health has notified 14,000 employers nationwide that their injury and illness rates are considerably higher than the national average.

In a letter sent this in March 2008, to those employers, Assistant Secretary Edwin G. Foulke, Jr. explained that the notification was a proactive step to encourage employers to take action now to reduce rates and improve safety and health conditions in their workplaces.

"A high injury and illness rate is costly to employees and employers in both personal and financial terms," said Assistant Secretary Foulke. "Our goal is to make them aware of their high injury and illness rates and to get them to focus on eliminating hazards in their workplace. To help them in this regard, OSHA offers free assistance programs to help employers better protect the safety and health of their employees."

OSHA identified businesses with the nation's highest rates of workplace injuries and illnesses through employer-reported data from a 2007 survey of 80,000 worksites (this survey collected injury and illness data from calendar year 2006). Workplaces receiving notifications had 5.4 or more injuries resulting in days away from work, restricted work activity, or job transfer (DART) for every 100 full-time employees. Nationally, the average U.S. workplace had 2.3 DART occurrences for every 100 employees.

Employers receiving the letters were also provided copies of their injury and illness data, along with a list of the most frequently cited OSHA standards for their specific industry. The letter also offered assistance in helping turn the numbers around by suggesting, among other things, the use of free OSHA safety and health consultation services provided through the states, state workers' compensation agencies, insurance carriers, or outside safety and health consultants.

Under the Occupational Safety and Health Act of 1970, employers are responsible for providing a safe and healthful workplace for their employees. OSHA's role is to assure the safety and health of America's working men and women by setting and enforcing standards; providing training, outreach, and education; establishing partnerships; and encouraging continual process improvement in workplace safety and health. For more information, visit www.osha.gov.

Fast Track to Failure: 10 Ways to Kill Your Career (Lauryn Franzoni, ExecuNet)

All of us experience failure at some point in our career. But for some, failure is merely a temporary setback; for others it's a recurring pattern and an ultimate career fate. It is this career failure that you can and must avoid. Although luck plays a role, the wrong workplace behavior is often a leading factor in career failure. Here are 10 behavior patterns that can cause your career to fail.

1. Not Keeping Your Skill Set Current

The business landscape is ever-changing and there is more demand for jobs than supply. Not staying on par with colleagues and those vying for your job is a death knell.

2. Not Delivering Results

It's all about accountability. Those who harbor a sense of entitlement for simply having put forth effort regardless of results fall by the wayside.

3. Not Communicating

Communicating via email doesn't replace the need to actually talk to people. If anything, automation and the internet have made personal communication even more important.

4. Thinking You're Irreplacable

There is no room for "divas" in the workplace. As soon as you convince yourself that you - and only you - can do the job "right," your star will surely fall.

5. Thinking You Know All the Answers

Socrates said the truly wise man is the one who recognizes his own ignorance and strives to correct it. Socrates's contempt for the know-it-all would have made him one excellent career counselor.

6. Surrounding Yourself with Brown Nosers

Successful people allow their ideas and schemes to be challenged and questioned.

7. Not Giving Credit to Others

As a manager, it's essential to give credit where credit is due. Those who take credit they don't deserve inevitably reap what they sow.

8. Failing to Self-Promote

Don't confuse crediting others with failing to get maximum mileage from your own achievements. I'm not talking about bragging. I simply mean making it a point of letting colleagues in your industry know about your own successes.

9. Not Seeking Advice

Those who fail to recognize their shortcomings are destined for the unemployment line. You can't do it all yourself. When you hit a roadblock, seek the advice and perspective of a respected friend, colleague or even a business coach.

10. Having No Life Plan

Last but certainly not least, successful people have a clear life plan. Many of them actually write their plan down. And they treat it as a living document that they revise in accordance with the lessons of experience.

Conclusion

While we have a right to expect equal opportunity, the fact of the matter is that all men-and women-are not created equal. Some of us are born smarter, more charismatic, energetic, etc. than others. But success is determined not just by the qualities with which nature endowed us but by how we behave in the workplace. Recognizing and correcting the above behavior patterns can thus go a long way toward helping you reach your career goals, whether in safety or any other endeavor.

Aggression on Job More Harmful Than Sexual Harassment

Persistent criticism, belittling comments, bullying and other forms of workplace aggression may inflict more harm on employees than sexual harassment, according to a Canadian study.

"As sexual harassment becomes less acceptable in society, organizations may be more attuned to helping victims, who may therefore find it easier to cope. In contrast, non-violent forms of workplace aggression such as incivility and bullying are not illegal, leaving victims to fend for themselves," lead author M. Sandy Hershcovis, of the University of Manitoba, said in a prepared statement.

In their work, the researchers reviewed 110 studies conducted over 21 years. They found that both workplace aggression and sexual harassment create negative work environments and unhealthy consequences for workers, but aggression has more severe consequences.

Workers faced with bullying, incivility or interpersonal conflict were more likely to quit their jobs, have a lower level of well-being, be less satisfied with their jobs, and have less satisfying relationships with their bosses than workers who were sexually harassed, the researchers concluded.

In addition, bullied employees reported more job stress, less job commitment and higher levels of anger and anxiety. "Bullying is often more subtle and may include behaviors that do not appear obvious to others," Hershcovis said. "For instance, how does an employee report to their boss that they have been excluded from lunch? Or that they are being ignored by a co-worker? The insidious nature of these behaviors makes them difficult to deal with and sanction."

Workers Happy for Danger Money

ONE third of employees believe their work equipment is hazardous but more than a quarter would compromise their health for danger money, a new survey shows.

The survey, conducted by network company LinkMe.com.au, also found that 40 per cent of people felt their employer did not care about their health and safety concerns.

The survey of about 1500 people found more than a quarter would compromise their wellbeing at work in return for more money.

Eighteen per cent of those respondents would accept \$10,000 as the minimum pay rise to compromise their health and safety, 17 per cent would accept \$5000, 9 per cent would accept \$3000 and 15 per cent would accept just \$1000.

“The fact that Australian workers are so desperate for money that they would compromise their own health and safety for a mere \$1000 reflects a cavalier or even desperate part of Australian working life,” LinkMe.com.au CEO Campbell Sallabank said.

With more than 30,000 claims for workplace compensation in 2007, the lack of Occupational Health and Safety concerns is a multi-billion dollar cost to Australian businesses every year, he said.

“A formal process for rectifying OH&S issues is essential in the modern workplace.

“Implementing a committee responsible for ensuring that concerns are dealt with swiftly and effectively is one tactic companies can adopt to deal with the issue.”

Forty-two per cent of people surveyed continue to use unsafe equipment because they felt they had no other choice, while 31 per cent said the nature of their work was always going to be detrimental to their health.

Twenty-eight per cent believed nothing would change even if they made a complaint and 16 per cent were concerned that complaining might threaten their job security.

Mr Sallabank said it was not enough to protect just employees from OH&S issues.

“According to the Federal Government, every business has a responsibility to ensure that its workplace doesn't create health and safety problems for customers and the general public.

“The cost of creating a safe work environment is strongly outweighed by the potential expensive cost of compensation claims, not to mention the moral reputation of the company.”

Obesity Linked to Reduced Productivity at Work: Moderate to Extreme Obesity Carries Increased Costs in 'Presenteeism' (Source: American College of Occupational and Environmental Medicine)

Employees who are moderately to extremely obese have reduced productivity on the job, even compared to overweight or mildly obese workers, reports a study in the January *Journal of Occupational and Environmental Medicine*, official publication of the American College of Occupational and Environmental Medicine (ACOEM).

Led by Donna M. Gates, Ed.D., R.N., of University of Cincinnati, the researchers measured various aspects of productivity in a random sample of 341 manufacturing employees. Most of the workers were overweight or obese, including a 23 percent rate of mild obesity (body mass index [BMI] 30 to 34.9) and a 13 percent rate of moderate to extreme obesity (BMI 35 or higher). Another 43 percent of workers were classified as overweight but not obese (BMI 25 to 29.9).

Workers with moderate to extreme obesity had the greatest health-related limitations at work, or "presenteeism." Specifically, moderately to extremely obese workers had limitations in time needed to complete work tasks and ability to meet physical work demands. These limitations were significantly greater than in the overweight or mildly obese groups.

Health-related losses in productivity averaged 4.2 percent for workers with moderate to severe obesity—1.8 percent higher than for all other employees. Based on an average hourly wage of \$21, the annual costs of presenteeism for moderately to extremely obese workers were nearly \$1,800—about \$500 higher than for other workers.

Employees with moderate to extreme obesity also had increased health-related absenteeism, compared with other workers. Presenteeism—days employees are at work but performing at less than full capacity is increasingly viewed as an important contributor to costs related to employee health.

The new results suggest obesity has a "threshold effect" on presenteeism, with moderately/extremely obese workers being significantly less productive than other workers. Limitations in performing job tasks and completing work in the expected time could be related to difficulty moving because of increased body size or weight, or because of an increased rate of pain problems due to other maladies such as arthritis.

Workplace programs targeting obesity, especially among the most obese workers, could help to reduce costs due to lost productivity. "The study's results support other research that has indicated that a weight loss of ten percent can yield substantial health and economic benefits," Dr. Gates and colleagues write. "Even modest weight loss could result in hundreds of dollars of improved productivity costs per worker each year."

Workers with Sleep Disorders Have More Accidents

It has been a long time coming. You can only guess how many thousands of miners have been crippled or killed because politicians bowed to industry instead of allowing public health experts to protect the miners from the asbestos in the talc, taconite and vermiculite that they pulled from the earth.

Asbestos Exposure Limits Now Provided for U.S. Miners

Beginning on April 29, 2008, it will be unlawful for employers in the mining industry to expose workers to asbestos concentrations higher than 0.1 fiber (per cubic meter of air) over an 8-hour shift. On February 29, 2008, the Mine Safety and Health Administration published a new exposure limit for asbestos to replace a 2.0 fiber limit which has been on the books since 1978 when the agency was created.

What OSHA Expects: The Electrical Safety Questions OSHA Will Ask During an Investigation (By Kenneth Cybart, Senior Technical Sales Engineer at Littelfuse – Occupational Hazards, March 13, 2008)

When it comes to electrical safety, OSHA standards can be technical and confusing. What requirements do safety managers need to know? Wouldn't it be nice to know exactly what OSHA is training its inspectors to look for during an inspection that includes electrical safety, including surprising new areas of emphasis based on national OSHA directives? This article covers some of the typical electrical safety questions that OSHA inspectors will ask during a field investigation, what they mean and how to be prepared and in compliance.

A good starting point is to understand OSHA's approach to electrical safety. OSHA's goal is for employers to identify all electrical hazards, both potential and actual. In the past, OSHA focused on process changes, encouraging companies to de-energize circuits before working on them, perform lockout/tagout procedures and develop ongoing safety programs that include worker training and retraining. A more recent area of emphasis is arc flash safety, which means electrical safety professionals must analyze the workplace for shock and arc flash hazards, establish safe protection boundaries and define what personal protective equipment (PPE) must be used within these boundaries.

For electrical safety in the workplace, OSHA relies on expert consensus bodies such as the National Fire Protection Association (NFPA) and its standards published in NFPA 70E. To ensure that employers are following NFPA and OSHA guidelines, OSHA trains its inspectors and compliance officers to ask specific questions in the event of an electrical safety incident. Some typical questions follow.

Is there a description of the circuit or equipment at the job location?

OSHA expects employers to know their workplaces. If an employer cannot provide a written description or drawing of the circuit or equipment, then the compliance officer may assume that the employer has not assessed the facility for electrical hazards.

Is there a detailed job description of planned work?

In order to know which safety procedures to use, the worker must be provided with a description of the job task. OSHA publication 29 CFR 1910 lays out employer responsibilities for protecting their workers from electrical safety hazards. It states that the employer shall train workers to use safe work practices that are designed to avoid injury.

Can you justify why equipment cannot be de-energized or the job deferred until the next scheduled outage?

Per OSHA 1910.333(a)(1), live parts to which an employee may be exposed must be de-energized before the employee works on or near them, unless the employer can demonstrate that de-energizing introduces additional or increased hazards or is not feasible due to equipment design or operational limitations. (Live parts that operate at less than 50 volts to ground need not be de-energized if there will be no increased exposure to electrical burns or to explosion due to electric arcs.)

The message is clear: never work on live circuits unless it is absolutely necessary. OSHA allows work on live circuits in some cases, but the reason cannot be simply that turning off the power is inconvenient or will interrupt production. Nor can workers use the excuse that they didn't have the authority to shut off power.

When it is necessary to perform work on energized equipment, OSHA 1910.333(a)(2) requires safety-related work practices to be used and NFPA 70E Article 110.8(B)(1) requires an Electrical Hazard Analysis before work is performed on live equipment operating at 50 volts and higher.

Other questions you can expect from an OSHA inspector include:

- What about safe work procedures?
- Has a detailed work procedure been established?
- Are there detailed descriptions of work practices to be employed?
- Was a job briefing checklist performed, and was the job briefing completed for those performing the work?
- Was proper management approval secured?

OSHA wants employers to make electrical safety procedures and practices part of regular work processes. Several annexes to NFPA 70E offer guidelines for lockout/tagout procedures, checklists and approvals. For example, Annex E covers Electrical Safety Programs, Annex F covers Hazard Risk Evaluation Procedures, Annex I covers Job Briefing Checklists and Annex J covers Energized Work Permits.

NFPA 70E annexes are not strictly "enforced" by OSHA, as they are appendices to the NFPA standard. However, OSHA inspectors and investigators will ask if the content and information contained in these annexes was followed and adhered to.

As an EHS professional, would you know the answers to these questions if an OSHA inspector came knocking on your door?

- Were required electrical safety analyses performed?
- Was an arc flash hazard analysis performed?
- Were flash protection boundaries established?
- Were all other potential electrical hazards identified?

OSHA regulations state that every employer shall furnish a place of employment free from recognized hazards that are causing or likely to cause death or serious physical harm, and that the employer must assess the workplace to determine if hazards are present and select PPE to protect employees. When it comes to electrical safety, OSHA refers to NFPA 70E, which requires employers to conduct an electrical hazard assessment consisting of a shock hazard analysis and an arc flash hazard analysis before work is performed on live equipment operating at 50 volts and higher.

These requirements may be fairly complex, as they involve calculating the potential fault current at each piece of equipment, understanding the characteristics of the overcurrent protective devices and how they are coordinated for each circuit and creating or updating one-line electrical drawings. Complex or not, OSHA inspectors are trained to ask if these analyses were performed, because they are essential to reducing the number of arc flash-related deaths and injuries that occur each year, as well as ensuring a safe installation.

When the safety of any job task involves electricity or electrical equipment, ask yourself these questions:

- Were proper tools and equipment used?
- Was the necessary PPE determined?
- Were the proper insulated tools used?
- Were insulated blankets and/or sheeting used to properly cover all of the live parts?

OSHA 1910.132 requires employers to assess hazards, select PPE and make sure that employees are trained how to use it. Electrical PPE, safe work practices such as lockout/tagout and safety training are covered by OSHA 29 CFR 1910.301-.399, also known as Electrical Subpart S.

For example, OSHA 1910.333 (a)(1)(i) states: “Employees working in areas where there are potential electrical hazards shall be provided with and shall use, electrical protective equipment that is appropriate for the specific parts of the body to be protected and for the work to be performed.”

For electrical workers, this standard’s effect is multi-fold. First, employers must facilitate workers’ understanding of the PPE required for each task on each piece of equipment. This may be communicated via a work order, a descriptive label on the equipment or a one-line drawing. Second, employers must select the PPE, which includes insulated tools and protective clothing. Third, the employer is required to train workers in safe work practices – and in particular, how to match the PPE to the level of the electrical hazard. And finally, OSHA 1910.269(a)(2)(iii) requires employers to “determine, through regular supervision and through inspections conducted on at least an annual basis, that each employee is complying with the safety-related work practices ...”

Were the workers performing the tasks qualified to do so?

OSHA defines qualified workers as those specially trained to work on live electrical equipment. Qualified workers must protect themselves against all electrical hazards including shock, arc flash, burns and explosions. Training is key. Even an experienced electrician is not “qualified” in OSHA’s eyes unless the employer can show proof of the appropriate training and certifications.

OSHA 1910.332(b)(2) also requires unqualified workers to be trained in the electrical safe work practices that are necessary for their safety. Unqualified workers, such as painters or cleaners, occasionally come into contact with energized equipment, and therefore they must be trained to recognize and avoid electrical hazards.

Work Zone Safety (Source: Federal Highway Administration)

Do you know what this number, **3000**, signifies?

It's the approximate number of work zones that are expected to be present on the U.S. National Highway System during peak construction season this year. Here are some interesting work zone statistics:

1,010 - persons were killed in motor vehicle crashes in work zones in 2006.

85% - of those killed in a work zone were drivers or vehicle occupants.

15% - of fatalities in work zones were workers, pedestrians and bicyclists.

160 - work zone injuries occur every day (one every 9 minutes).

12 - billion vehicle miles of travel this year will be through active work zones.



Safety Talk: Don't Zone Out in a Work Zone (By Barbara Manning Grimm, Editor of Bongarde Media's Safety Smart! Online)

Luiz Jimenez, 49, and his son Edward, 24, were reportedly very close. They lived in the same house in Inverness, Florida and did the same kind of work: highway construction. And in a twist of tragic irony, they were killed by the same vehicle. Last month, a Ford Freestyle was passing the work zone, ran off the road and struck Edward, who was standing on the shoulder. Then the vehicle hit a trailer, jumped a guardrail and ran over Luiz.

Learning from Tragedy

This tragic incident puts into perspective the importance of this week's public awareness campaign: The Ninth Annual National Work Zone Awareness Week 2008. It is everyone's responsibility - planners, drivers, pedestrians and law enforcement officials - to ensure that workers and motorists who must enter highway construction zones are safe. Here's a safety talk to deliver to your workers on this critical topic. It's dedicated to the more than 1,000 persons killed in motor vehicle crashes in work zones each year. Road work zones continue to have far too many traffic fatalities. The victims include both construction workers and occupants of the vehicles trying to rush past them.

What Is a Work Zone?

A work zone is a designated area on a street or highway where construction is taking place. It can be recognized by distinctive orange and black signs, as well as lighted barricades, flaggers and other means of signaling.

Driving in Work Zones

When you're driving and you see a work zone, you should put yourself on high alert. Be aware of your surroundings, including the construction activity, signs, signals and flagger instructions. Some important do's and don'ts to keep in mind:

- Don't be distracted by the workers. Be aware that activity involving workers and equipment close to the road can be distracting, so pay extra attention to your driving, the other traffic and any possible obstacles.
- Be alert. Hazards are apt to develop unexpectedly because construction sites are active and continually changing. Watch what's going on around you. Don't just blindly follow a pilot truck if it is leading you into the path of a moving grader. Watch for obstructions extending out into your lane of travel, such as loads on trucks and buckets on backhoes.
- Be prepared to take action quickly. Gear down if necessary, and stay ready to brake. Check your rearview mirror to see if other vehicles are slowing down as they should. Flash your brake lights if necessary.
- Allow adequate space between you and the vehicle in front of you. Tailgating contributes to the large number of rear-end collisions occurring in work zones.
- If you have to merge with traffic in another lane to get around the obstruction, do not wait until the last moment.
- Turn on your lights so that other drivers and equipment operators can see you better.
- Minimize distractions. Don't fiddle with the CD player or talk on the cell phone when you're negotiating a work zone.
- Do not pass in a work zone.
- Do not change lanes unnecessarily.
- Keep up with the traffic flow.
- Do not exceed the posted speed limit. Big fines are handed out to work zone speeders because of the serious hazards they create.
- Even if you do not see anyone working, follow the instructions, such as speed limits. Otherwise, you might be going too fast to negotiate narrow lanes, sudden turns and rough road surfaces.
- Be patient. Many crashes have occurred when warning signs are placed far from the work zone or left out overnight and impatient drivers speed up. It's the work zone supervisor's responsibility to place signs correctly, but it is your responsibility to heed warnings and drive safely.

Conclusion

Work zone fatalities and injuries have been on the increase in recent years, partly because of more construction projects and partly because of inattentive driving in heavy traffic. Drive with care to make sure you and the people building the roads make it home safely another night.

Lessons Learned: Feds Second-Guess State OSHA (By Alexandra Berzon, Las Vegas Sun, August 26, 2008)

Federal workplace safety officials have raised “significant concerns” about the way Nevada resolved an investigation of a double fatality at the Orleans last year. Concluding a lengthy review of the Nevada Occupational Safety and Health Administration’s conduct, federal OSHA officials said their investigators would have conducted the investigation differently, and would not have downgraded the citations against the Orleans’ (hotel/casino) owner, Boyd Gaming, as Nevada OSHA did.

The citations were weakened after a top official in Governor Jim Gibbons’ administration became involved in the case, a highly unusual step that is under investigation by the state attorney general. The federal OSHA findings are detailed in a five-page letter the agency sent to the family of one of the victims, Travis Koehler. The agency said the letter, obtained by the Sun, is similar to one sent to Nevada OSHA.

“Taken individually, the irregularities in this case generally appear minor,” said the letter to the family, written by Ken Atha, regional administrator of federal OSHA’s district office in San Francisco, which monitors Nevada. “When reviewed in their entirety, however, we believe that the handling of this case raises some significant concerns.”

The accident occurred Feb. 2, 2007. Orleans worker Richard Luzier entered a manhole to fix a sewage backup problem and was overcome by fumes. A fellow worker, Koehler, entered the manhole to try to save him. He, too, lost consciousness. A third worker, David Snow, entered and also was overcome. Luzier and Koehler died. Snow recovered after weeks on life support.

In an extensive investigation, Nevada OSHA investigators found that Boyd Gaming officials had not taken safety precautions despite being warned by employees and by OSHA about the dangers of not having a safety plan for problems that arise with the manholes. OSHA inspector John Olaechea concluded, “Boyd corporate had knowledge and failed to act. That is the exact definition of the criteria for a willful citation.”

But then the case went through a series of last-minute negotiations that included direct involvement by Mendy Elliott, Gibbons’ appointed head of the Business and Industry Department, which includes Nevada OSHA. Nevada OSHA reduced both the severity of the citations, downgrading them from “willful” to “serious,” and the fines attached — from about \$400,000 to \$185,000 — and enrolled Boyd in a state safety consulting program that exempts the company from regular OSHA inspections for several years. Olaechea and Boyd Gaming health and safety manager Don Barker quit in protest over the outcome. Nevada OSHA and Boyd Gaming representatives have insisted no inappropriate irregularities occurred in the course of the investigation.

Afterward, Koehler’s mother, Debi Fergen filed a complaint with the federal office. The complaint, known as a CASPA, compels the federal agency to investigate. In its review, the agency found that Nevada OSHA had downgraded the citations on advice of the department’s attorney, John Wiles, who made the recommendation following last-minute settlement discussions with Boyd Gaming officials. Wiles has said he concluded the willful citations could be tough to defend in court.

Federal OSHA found that “while the investigation file in this case contained considerable evidence to support a willful classification, there is also evidence to the contrary.” Atha wrote, “Since substantially similar violations were cited previously at another Boyd Gaming property in Nevada, Federal OSHA likely would have classified them as repeat, if not willful, violations.” That statement surprised Chris Lee, a former deputy regional manager at the San Francisco federal OSHA office, when told about it by the Sun on Monday. Lee had worked on earlier drafts of the letter before he retired. He had grown concerned that the final version would not come out as strongly against Nevada OSHA’s conduct as he thought it should. He said Monday that he was heartened to hear the letter had become more critical of Nevada OSHA. “I think that’s a significant finding,” Lee said. “I don’t recall that we’ve ever said something along those lines. To say they wouldn’t have done it that way clearly implies (fed OSHA is) concerned about what happened and wants to make sure procedures would preclude it from happening again.” Fergen, too, was pleased by the finding that Nevada OSHA could have issued stronger citations. “Maybe they were afraid to fight it, but you know what, they could have tried,” Fergen said.

Among the additional findings by the federal agency:

- The state did not violate any laws by delaying the issuance of citations beyond the six-month time period required for an investigation, but it should nonetheless consider changing procedure to hold a conference with the employer sooner in the investigation process, as federal OSHA does, so that hazards can be fixed sooner.
- The unprecedented involvement of top department officials in the investigation was in accordance with state law, but could have been avoided.

Nevada OSHA said Elliott and Roger Bremner, director of the Industrial Relations Division, involved themselves in the case because OSHA’s top official, Tom Czehowski, had been temporarily moved to head the taxicab authority. Czehowski had been reassigned by Elliott, who has since transferred him back to OSHA.

The federal agency said the state could have handled it differently and recommended that Nevada OSHA consider revising its procedures to ensure that “senior professional staff who are familiar with the investigation and conversant with technical compliance issues are available to participate in the resolution of significant and complex cases whenever possible.

“In this case, for example, Nevada could have made (Czehowski) available for a brief period in order to assist in the resolution of this high profile, double-fatality accident case.”

- Language in the settlement with Boyd may have been too ambiguous, implying that Boyd would be exempt from all OSHA inspections during the years it is receiving safety consultation services from the state. That would be contrary to federal law.

The federal agency said, “Nevada should carefully consider the appropriateness of the use of consultation as a tool in future settlement agreements.” The federal government has limited authority over the agency run by Nevada, which is among those states that operate their own OSHA. But the federal government does have the authority to review individual cases to find out whether a state agency followed its own procedures, and to ensure that a state OSHA is at least as effective as the federal agency. Atha said he has asked Nevada OSHA to respond within 30 days and to review and revise the state’s procedures to make sure they meet the “effectiveness” criteria.

Fergen plans to send Atha’s letter to the district attorney’s and state attorney general’s offices to try to trigger further investigations. A spokeswoman for the attorney general said Monday the investigation into the involvement of top department officials in the case is still under way. The district attorney has said he would not investigate criminal charges in a workplace incident unless asked to by Nevada OSHA. The Sun contacted the Business and Industry Department for

a response Monday. The agency did not reply, but within an hour the department had sent word of the request to Boyd Gaming, through several attorneys. Boyd spokesman Rob Stillwell then called the Sun to inquire. Stillwell said the company did not have a copy of the letter and could not respond.

Lessons Learned: U.S. Labor Department's OSHA proposed \$155,000 in Penalties Against Naples, Florida Construction Contractor (Agency cites company for alleged willful and serious safety violations)

The U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) proposed \$155,000 in penalties against John Carlo Inc. for two alleged willful and three alleged serious violations uncovered during an inspection of a company construction site in Naples, Florida.

OSHA issued two willful violations against the company with \$140,000 in proposed penalties for failing to provide cave-in protection to employees working inside an excavation that contained unstable soil, and allowing excess soil to be placed too close to the edge of the trench wall. OSHA defines a willful violation as one committed with plain indifference to or intentional disregard for employee safety and health.

Three serious violations with proposed penalties totaling \$15,000 were issued to address deficiencies in the employer's training program, employee exposure to hazards from ductile iron pipe being lifted overhead, and employees using a ladder that was too short on an unstable surface. A serious citation is issued when death or serious physical harm is likely to result from a hazard about which the employer knew or should have known.

"Having employees work unprotected in a deep trench with unstable soil is a recipe for disaster," said Darlene Fossum, OSHA's area director in Fort Lauderdale. "Being behind schedule is no excuse for gambling with employees' safety."

The company has 15 business days to contest the citations and proposed penalties before the independent Occupational Safety and Health Review Commission. The site was inspected by staff from OSHA's Fort Lauderdale Area Office, 8040 Peters Road, Building H-100, telephone 954-424-0242.

OSHA operates a vigorous enforcement program, conducting more than 39,000 inspections in fiscal year 2007 and exceeding its inspection goals in each of the last eight years. In fiscal year 2007, OSHA found nearly 89,000 violations of its standards and regulations.

Under the Occupational Safety and Health Act of 1970, employers are responsible for providing safe and healthful workplaces for their employees. OSHA's role is to assure the safety and health of America's working men and women by setting and enforcing standards; providing training, outreach and education; establishing partnerships; and encouraging continual process improvement in workplace safety and health.

Lessons Learned: Widow Seeking \$10.5 Million in Husband's Death (By Matt King, Times Herald-Record, August 13, 2008)

The widow of the man who died last year installing the Millennium Pipeline in Harriman State Park is suing the company over his death. Pat McCaffrey, 67, died Sept. 15. He was in the enclosed cab of a side boom, putting segments of the pipeline in place, when the machine tumbled backward down a hill and threw him. The suit seeks \$10.5 million.

The side boom, a crane-like construction vehicle on treads, was perched on steep and gravelly terrain at the time, and the suit filed by Darlene McCaffrey alleges her husband died as a result of Millennium's "carelessness and recklessness" and because the company "failed to take the necessary precautions and safeguards to prevent the accident."

McCaffrey, of Lebanon, N.J., actually worked for Precision Pipeline, but Pat McCaffrey's attorney, David Kownacki, said Millennium is responsible for any accidents on their project. "Whether it was a matter of equipment" or whether it was a matter of grading, the conditions this man worked under were dangerous," Kownacki said, "and the result proved that."

The Occupational Safety and Health Administration slapped Precision with a \$2,000 fine after the accident, but it was for a violation unrelated to McCaffrey's death. A State Park Police investigation determined McCaffrey was not wearing a safety harness when he died. "I'm sure that's an issue that will be asserted by the defense," Kownacki said. "We'll have to see how that goes. It might have been difficult or impossible for him to do his work with the seat belt on." A Millennium spokesman did not return a call seeking comment.

The pipeline will ultimately stretch 182 miles from Corning, in the Southern Tier, to Rockland County, and will dramatically boost capacity for natural-gas suppliers, who now rely on a narrower pipe that follows the same path. It's supposed to come online in November.

Work Safety Gallery Extension Opens in Hong Kong

The Science Museum Occupational Safety & Health Gallery's new extension will open to public on March 14, enabling visitors experience the importance of safety through scenes blending virtual objects with real ones.

Jointly established by the Occupational Safety & Health Council and the museum, the gallery will boost public awareness of occupational safety issues in the manufacturing and construction industries, and office work stations through fascinating robotics and interactive exhibits.

The new gallery features 10 exhibits, including forklift, wheelbarrow and mobile crane models which visitors can control to complete different tasks in an occupationally-safe way.



Virtual reality: A visitor tries out the "forklift" at the Science Museum Occupational Safety & Health Gallery.

Safety Training Strategies – “Toss the Ball” (by Eric Allton from the University of California, Irvine) [from "Safety Stuff" by Richard Hawk Inc.]

Items Needed:

A "soft" ball (tennis ball size), empty office trash can, coffee cup.

Number of Participants Needed:

At least three . . . but the more the merrier.

Time Needed To Complete Activity: Between 5 and 10 minutes.

Activity Rules:

You will need one person to throw the ball and another to keep time. Don't tell the other folks at the meeting (who don't have an assignment) what to do during the exercise. Instead, wait and see what will happen.

The person assigned the ball should be given the following three rules . . . 1) they cannot move from their current position 2) they must ensure that the ball is placed into the trash can--no exceptions! 3) there is a five second time limit.

Activity Details:

It is important that all phases of this activity occur in the order below. Don't explain the purpose of the activity in advance. Everyone will most likely figure it out on their own (this is what you want!).

Phase 1: The trash can should be placed directly in front of the person with the ball (place the trash can directly on the conference table for added effect). Once the timekeeper starts counting, the person has five seconds to get the ball into the trash can.

This task is very easy and the person with the ball will have a huge smile on his face after tossing it into the trash can with seconds to spare.

Congratulate the person and tell him that it's on to Phase 2!

Phase 2: Move the trash can about four feet away, give the ball back to the person assigned and remind him that he must get the ball into the trash can within five seconds--no exceptions!

Some folks may toss the ball into the trash can within the five second period of time. No matter. Congratulate the person on his fine marksmanship. On the other hand, if the ball misses its mark (which is what happened in my meeting), calmly look at the person who threw it and say, "Remember, you have to get the ball into the trash can in five seconds or less. No exceptions!"

Phase 3: Now, remove the trash can and place an ordinary coffee cup about 10-15 feet away from the person with the ball. Remind the person with the ball that they must now get the ball inside the cup in five seconds or less--no exceptions!

Now this is where the exercise gets interesting. What will the person with the ball do? It is almost impossible to make the ball into the cup from that distance, yet the standing rule is that the ball must get into the coffee cup--no exceptions!

When I conducted this phase of the activity at my meeting the person with the ball stood at the far end of the conference table looking quite perplexed (rightfully so). I then asked the timekeeper to start counting off the seconds. Finally with about 3 seconds left, one of the other folks at the meeting screamed out, "Throw it to me! I'll put it in for you!" The person with the ball thought about this plan for a split second, then tossed the ball to his "partner" who neatly placed the ball into the coffee cup with zero seconds to spare.

Don't worry if your "bystanders" don't help or the person with ball refuses to accept their advice and misses the target. You will then have the opportunity to explain how the circumstances would of been different with a little more communication and teamwork!

Be sure and reward all of the participants!

TOP 10 Worst Excuses for Calling in Sick (Source: Careerbuilder.com, 2006)

Here are ten (10) actual excuses that employers say their employees have used to explain why they weren't coming in to work.

1. I was poisoned by my mother-in-law.
2. A buffalo escaped from the game reserve and kept charging me every time I tried to leave the house and get into my car.
3. I was feeling all the symptoms of my expecting wife.
4. I broke my leg snowboarding off my roof while drunk.
5. I was locked in a restroom stall and no one was around to let me out.
6. I blew my nose so hard that it threw out my back.
7. My dog swallowed my bus pass.
8. I had a bad case of hiccups.
9. A skunk got into my house and sprayed my uniform.
10. My wife said I couldn't go to work because I had a lot of chores to do around the house.

Prostitutes Given Guide to Safe Work

A detailed manual overseeing the world's oldest profession — the sex trade — is to be introduced in Western Australia soon and will explain how to run a brothel and the safest way to work as a prostitute. The 50-page draft policy, titled Code of Practice: Occupational Health and Safety in the Sexual Services Industry, will be completed soon after long-awaited prostitution laws pass through Parliament, expected to be early next month.

The code of practice, the first of its kind for WA's sex industry, covers issues that prostitutes, brothels and escort workers encounter on a regular basis, including regular health checks and safe sex practices. The guidelines recommend prostitutes not be on duty for more than 12 hours, have three-monthly health checks for sexually transmitted infections and be vaccinated against hepatitis A and B.

New sex workers should be given induction training on how to handle difficult clients, how to refuse services, deal with workplace violence, sexism and harassment, how to put on a condom properly and what to do if a condom breaks during sex. Unclean or faulty equipment such as spas and sex toys, condom breakage, escort work to unknown or unsafe locations and unchanged linen are identified as industry hazards. To prevent "occupational overuse syndrome", a condition which occurs when people perform rapid repetitive tasks, the policy suggests employers provide beds that offer back support and bondage and discipline equipment be adjustable and not too heavy.

Industry insiders have welcomed the imminent introduction of the code, saying it is long overdue. Owner of Langtrees brothels in Perth and Kalgoorlie Beverly Clarke, who has objected to aspects of the proposed laws, asked whether private sex workers would follow the code. "You just have to look at the number of advertisements in the newspaper each week promoting natural sex or sex without condoms," she said. Langtrees madam Anne Forrester was confident the new legislation would help monitor and support private operators.

The draft code was developed last year by a group consisting of sex workers, medical experts, local government and Health Department representatives. Ms Forrester said the group would meet again soon after the laws were passed to finalize the code.

Live YOUR Life (By Richard Hawk, StressStuff Newsletter, March 11, 2008)

One of the surest ways NOT to enjoy life is to spend it comparing yourself to others. It happens constantly. I see it everywhere I go. In fact, if I had to pick three things that bring the most stress into peoples lives in our "modern society" it would be worrying, hurrying and comparing.

We're constantly encouraged to compare. It's a grand marketing tool. Everything about you and what you own (car, clothes, body type, salary, etc.) will rarely be the best there is. And if something you have or can do is the best, it's only for now. Later, something or someone will surpass it.

Here are three things I do regularly, which help me avoid the nasty, joy-sapping habit of comparing:

- 1) Every day, in the shower, I spend a moment or two reveling in the fact that I can take a shower. I have all the warm water I want. Which nearly half the humans on this planet cannot imagine having. Most of us are wealthy in so many ways. Just being able to have all the food, shelter, entertainment, etc. etc. etc. that we have is amazing!

2) I learn from others who are "doing better" than me in a particular area rather than envy them. At one time, I would think to myself, "Man, I'm better than he/she is at speaking; how come I'm not as popular as he/she is or getting the same fees?!" Not anymore. Now I just find out what makes others so popular as a speaker and learn from it. Sometimes I can use what I learn; sometimes not. But my new approach eliminates my comparing mind. (It has also helped me grow my business!)

3) I've come to cherish simple pleasures more. It's not true that "the best things in life are free." They cost. Not money, but something more valuable--your attention. (By the way, that's what the marketers want the most from us--our attention because they know how valuable it is.) I work at paying attention to the simple beauty in our human experience in all its forms, including some of the sad ones.

There will always be someone who has things, qualities and situations you wish you had. You'll never be satisfied or enjoy living as much as you could if you base your success on how you compare with other people. Live your own life--it's the only one like it.

Convenience Store Safety Tips

Despite being labeled as some of the most dangerous jobs in the retail industry by the federal Occupational Safety and Health Administration, there are plenty of proactive steps convenience store and check cashing clerks can take to prevent violent crime. Here are a few tips:

- **Minimize the reward:** Stores should keep a minimal amount of cash on hand. Using safe deposit boxes and routine armored car pickups can eliminate large amounts of cash in the store at one time.
- **Maximize the risk:** Clerks should make sure windows and store aisles are easily visible. Window signs should be cleared so it's easy to see in and out of the store. Merchandise racks should be kept short so clerks have sight lines to monitor the entire store. Fencing the property boundaries also is a good idea to force would-be robbers to use a prominent entrance and exit.
- **Protect yourself:** The use of bulletproof partitions, audio-video surveillance and other security equipment helps deter crime. If thieves know they'll be caught on tape or are unable to threaten the clerk, they'll consider other targets.

Safety Tidbits (from "Safety Stuff" by Richard Hawk Inc. <http://www.richardhawking.com>)

- The average American coffee drinker consumes about two (2) cups a day.
- It takes it only 30 minutes to get the peak caffeine rush from a cup of coffee.
- Men rid caffeine more quickly than women from their bodies.
- Only 33 percent of patients admitted to emergency rooms for heart attacks have actually had one.
- Hand surgeons say that if you had to lose a finger, the index finger is the best one to lose.
- In Cuba, you can be jailed for three days if your house burns down.