



National Safety  
Management  
Society

**DIGEST**

*Updating Members on Safety Management News*

**May 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 members to our Society:

- **Josh M. Jabben**, Corporate Safety Coordinator – Clean Air Engineering, Inc. (Palatine, Illinois)
- **Brian L. King**, Risk Manager – Intermountain Construction and Materials (Gillette, Wyoming)
- **Jake W. Waggoner**, Occupational Health, Safety & Security Manager – Hynik Semiconductor (Eugene, Oregon)

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 Ballots Forthcoming 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 will be distributed to all current dues-paying members next month.

## “NSMS Professional Development Conference” Deferred Until 2009

With the limited availability of volunteers, conference facilities and guest speakers, the next NSMS Professional Development Conference will need to be pushed into 2009 calendar year. We are asking our membership to send us your thoughts as to meeting location. We want to make sure we have the right venue to bring as many attendees possible to benefit from the program information. This next conference is open to NSMS members, past members and other interested safety/risk management professionals/supervisors/managers/executives with the US and internationally, as well as students pursuing degrees in the field..

If you are interested in being part of the planning committee, please contact the NSMS Headquarters via email ([nsmsinc@yahoo.com](mailto:nsmsinc@yahoo.com)) and we will connect you with the core logistical team. If you are interested in speaking, submitting a technical, research or safety management paper, or sharing at our poster session, please contact:

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As an employer, Recruiter or vendor, if you are interested in participating in our job fair and exhibition, Please send an email to our corporate headquarters ([nsmsinc@yahoo.com](mailto:nsmsinc@yahoo.com)). Thank you.

## **SPECIAL ADVANCED ANNOUNCEMENT:**

### **Planning is Underway . . .**

**NATIONAL SAFETY MANAGEMENT SOCIETY  
Special Professional Development Program  
November 6, 2008 - New Orleans Hilton  
New Orleans, Louisiana**

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

Please join the National Safety Management Society for a **1-Day Regional Safety Program** tentatively at the New Orleans Hilton. 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 in the June 2008 issue of the ***NSMS Safety Digest Newsletter***.

Conference Registration Fee: \$200 (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](http://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.

## **Foulke Announces Several Key Appointments**

Assistant Secretary of Labor for Occupational Safety and Health Edwin G. Foulke, Jr. recently announced new appointments to key executive positions at the agency.

Steven F. Witt has been appointed as the new director of OSHA's Directorate of Cooperative and State Programs. Witt began his career at DOL in 1972 as an attorney in the Office of the Solicitor. In 1983, he joined OSHA and held several positions including special assistant to the assistant secretary and director of the Directorate of Standards and Guidance. He served as the director of OSHA's Directorate of Construction since October 2006.

Jennifer A. Ashley has been named the new director of the Office of Communications. Ashley has more than 20 years of experience in media and communications management, primarily in federal and state government relations and in the academic and legal arenas. Prior to joining OSHA, she served as the director of communications for the International Association of Fire Chiefs, and was also associate director of external affairs and director of alumni affairs for the University of North Carolina School of Public Health.

Ken Nishiyama-Atha has been selected as the new regional administrator for OSHA's Region IX, headquartered in San Francisco. In 1997, Nishiyama-Atha began his career with OSHA as a safety specialist in the Milwaukee area office. During his 11-year tenure with the agency, Nishiyama-Atha has served as assistant area director for OSHA's Appleton, Wis., area office, and as area director in the Columbia, S.C., and Mobile, Ala., area offices. Prior to his new appointment, he was the acting deputy regional administrator in Region III, headquartered in Philadelphia.

John Hermanson has been selected as OSHA's new regional administrator for Region III after serving as deputy regional administrator for Region VIII (Denver). Hermanson began his career with OSHA in 1976 as an industrial hygienist in the agency's Indianapolis area office.

"It is a privilege to have these professionals in our agency who bring a wealth of knowledge and experience," Foulke said. "I congratulate them all on their new positions, and look forward to working with them as we continue to pursue the mission of promoting the safety and health of America's working men and women."

## **U.S. Labor Department Kicks Off Youth Job Safety Campaign**

U.S. Secretary of Labor Elaine L. Chao today kicked off the Occupational Safety and Health Administration's (OSHA) national 2008 Teen Summer Job Safety Campaign on NBC's TODAY show. "The Teen Summer Job Safety Campaign educates teenagers on the importance of workplace safety and health habits that will help protect them and their coworkers at work," Secretary Chao said.

OSHA launched the fourth year of its youth public awareness campaign at Rockefeller Plaza in New York City, where the agency and teens from SkillsUSA demonstrated safe work practices for some of the most common tasks that teens are likely to encounter in summer jobs. SkillsUSA, an OSHA national Alliance Program participant, is a nonprofit organization serving teachers and high school and college students who are preparing for careers in trade, technical and skilled service occupations.

OSHA will host and participate in local events and activities around the country to help keep teenagers safe and healthy on the job. Activities include career fairs, youth programs, expos, career days and training seminars. OSHA and its regional partners are striving to reduce work-related injuries among teens by teaching them on-the-job safety and integration of principles into their work tasks from this early age. Through working with many strong national and regional Alliance Program participants and other cooperative programs, OSHA plans to reach more than three million teens.

Workplaces are safer than they have ever been with fatality and injury and illness rates declining to record lows in this administration. The injury and illness rate was 4.4 per 100 employees and the work-related fatality rate was 4.0 fatalities per 100,000 employees in 2006, the latest data available. Since OSHA's inception in 1971, U.S. employment has increased from 56 million employees at 3.5 million worksites to more than 135 million employees at 8.9 million worksites.

"Programs like the Teen Summer Job Safety Campaign help create a culture of safety," said Assistant Secretary of Labor for Occupational Safety and Health Edwin G. Foulke Jr. "Our goal is to continue to drive down the number of occupational injuries among teens, especially in the construction industry."

The campaign is part of OSHA's Young Worker Initiative, which provides information and resources to teenagers, parents, educators and employers to ensure safe and rewarding work experiences for these summer employees. More information about workplace safety for teens is available at [www.osha.gov/teens](http://www.osha.gov/teens).

Under the Occupational Safety and Health Act of 1970, employers are responsible for providing a safe and healthy workplace for their employees. OSHA's role is to promote 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.

## **Senators Kennedy, Murray Call For GAO Investigation Into Underreporting Of Workplace Injuries And Illnesses**

On April 22, 2008, U.S. Senators Patty Murray (D-WA), Chairman of the Senate HELP Subcommittee on Employment and Workplace Safety and U.S. Senator Edward Kennedy (D-WA), Chairman of the Senate Health, Education, Labor and Pensions Committee asked the U.S. Government Accountability Office (GAO) to investigate whether the Occupational Safety and Health Administration (OSHA) is effectively working to ensure that employers are accurately reporting injuries and illnesses in the workplace.

Murray and Kennedy are concerned that underreporting has become more prevalent in recent years while OSHA's efforts to monitor the accuracy of reporting have diminished. If injuries and illnesses go underreported, OSHA cannot perform its mission to protect workers from workplace hazards like chemical exposure and dangerous machinery.

"When it comes to the health and safety of American workers, we can't allow OSHA to just take employers at their word," said Senator Murray. "We need an agency that takes the initiative to keep businesses honest about the dangers their workers face."

Senator Kennedy said, "More than 40 years after landmark occupational safety legislation was enacted, the workplace is still too dangerous for too many American workers. OSHA can't do its job to protect

these workers if it doesn't know what is really going on. That's why this GAO report is important. It will give us the information we need to hold OSHA and employers accountable."

Because OSHA uses the illness and injury information that businesses provide to determine who to inspect, there is an incentive for businesses to underreport. For this reason, Senators Murray and Kennedy believe that OSHA must be more proactive in regulating industries and verifying injury and illness report claims.

"I want the GAO to take a good hard look at injury and illness reporting because frankly, it's a system that seems all too easy to game," said Senator Murray. "In my hearings and in discussions with occupational health experts, I have heard about the shadowy practice of underreporting and I think it's time to shed some light on this process."

In testimony before Senator Murray's subcommittee last April, Dr. David Michaels, a Professor of Occupational Health at George Washington University, said that two-thirds of injuries and illnesses are being missed under current reporting methods.

### **Doctors Feel Push to Downplay Injuries: Group Tells OSHA of Pressure by Companies** (By Ames Alexander, The Charlotte Observer, April 19, 2008)

A leading group of occupational doctors is taking the unusual step of speaking out publicly against pressure from companies to downplay workplace injuries.

To outline their concerns, the physicians have sent a letter to federal workplace safety regulators and held a conference session in New York City on Monday. They're also planning to testify before Congress.

If successful, their campaign could affect the treatment of injured workers and might help change how the government assesses workplace safety.

"Our members feel they are being methodically pressured ... to under-treat and mistreat," said Dr. Robert McLellan, president of the American College of Occupational and Environmental Medicine. "...This is a grave ethical concern for our members. It's a grave medical concern."

His group represents 5,000 doctors; some treat workers referred to them by employers, while others work directly for companies.

Employers are supposed to record all injuries requiring time off work or medical treatment beyond first aid. It's an honor system, and the injury logs are used by regulators and others to gauge plant safety. Low injury rates allow companies to avoid scrutiny from workplace safety regulators and may help managers earn four-figure bonuses.

In a hotel meeting room in New York, doctors said this helps explain why some employers urge them not to treat injuries in a way that would make them reportable. A cut, for instance, must be recorded if the worker gets stitches, one doctor told the room of more than 60 colleagues. But if the doctor simply covers the cut with a bandage, it doesn't have to be reported.

Workplace injury and illness rates -- a key factor in determining whether regulators inspect a company -- have been declining nationwide in recent years. But some experts suspect that's partly because employers aren't reporting all on-the-job injuries.

McLellan, an associate professor at Dartmouth Medical School in New Hampshire, says he thinks employers are "vastly underreporting" the extent of workplace injuries.

"Players in the system may willfully produce records that don't reflect reality," he said in an interview.

He said he grew more concerned about corporate pressures on doctors in September, during a conference in the Carolinas. Since then, he said, he has heard from dozens of doctors.

That led him to contact the U.S. Occupational Safety and Health Administration, and he expects to discuss his concerns with top agency officials next month. His group will likely propose that OSHA more vigorously investigate the accuracy of company injury logs. It may also ask regulators to rely on a broader array of workplace safety measures -- and to rewrite rules so that companies have fewer incentives to underreport.

McLellan also wants occupational doctors to testify before congressional committees examining workplace safety.

Ethical physicians sometimes lose business to those who bend to the wishes of employers, some doctors and workers' compensation lawyers say.

In the Carolinas and some other states, injured workers generally must visit doctors approved by their employers if they want workers' compensation to pay for the treatment. Companies incur higher costs for compensating workers for medical care and lost wages when they're injured on the job.

Employers tend to send workers to doctors who can help them keep costs low and productivity high, according to attorneys who represent injured workers. Doctors become popular with companies if they rarely order time off work for injured employees, or if they seldom recommend costly treatments or conclude injuries are work-related, those lawyers say.

"If you get past the infirmary and sent to a doctor, you're getting sent to a doctor that lives on the plant," said lawyer David Davila, who until recently worked in Columbia, S.C.

Atlanta lawyer Bruce Carraway has represented more than 400 injured poultry workers and says that in more than half of those cases, independent physicians gave different assessments than the company doctors.

Dr. Josephus Bloem, an orthopedic surgeon from Rocky Mount, said he used to get referrals from Perdue Farms. But in the 1990s, the company became unhappy that he usually recommended surgery for workers with carpal tunnel syndrome.

"Their top doctor once visited me and complained that I was too expensive, which I took as pressure to review my approach," Bloem said. Not long afterward, the referrals stopped.

Dr. Roger Merrill, Perdue's chief medical officer, said the company had discovered that many workers who got less invasive treatment -- such as splinting, exercise and ibuprofen -- fared better than those who got surgery. "We had a better way to treat folks," he said.

But Bloem wondered whether health concerns were the only factor. "In the end," he said, "the money wins."

In their quest to keep injuries off logs, company officials without medical training sometimes provide inappropriate treatment, doctors at the New York conference said.

Dr. Peggy Geimer, corporate medical director for a chemical company in Connecticut, spoke of the "tremendous amount of pressure" on company staff to provide treatment beyond their level of expertise.

She recalled how one supervisor dealt with an injured worker who spilled an acidic chemical on his arm: He applied potash, which is sometimes used to clean up chemical spills -- unaware that it would only make the burn worse.

McLellan said he doesn't recall his group ever before taking such a strong stance on the issue. As one doctor at Monday's conference put it: "We need to treat the patient. Not the log." -- *Staff Writers Karen Garloch and Franco Ordonez contributed.*

## **Voluntary Protection Programs Continue to Make Strides: Defense Department Looks to VPP to Improve Safety** (by William Murray American Forces Press Service, April 23, 2008)

Defense Department officials participated in a conference here April 21 with an eye on reducing the department's estimated \$10 billion in annual losses caused by preventable injuries and accidents.

Keith Eastin, assistant secretary of the Army for installations and environment, kicked off the Voluntary Protection Programs conference with remarks that emphasized the importance of safety to the Defense Department.

"What you do is important," he told the conferees. "It is important to our secretary, and it is important to the Defense Department."

Voluntary Protection Programs not only are good for the health and safety of Soldiers, Sailors, Airmen, Marines and DOD civilians, but also are good business for the department, he added.

A highlight of this year's VPP conference was the announcement that two DOD installations attained VPP Star status. Cathy Oliver, director of the Office of Partnerships and Recognition with the Occupational Safety and Health Administration, announced that Marine Corps Logistics Base Barstow, Calif., and Naval Air Station Key West, Fla., met the stringent requirements to become VPP Star sites.

VPP sets performance-based criteria for management commitment, employee involvement, hazard recognition and mitigation and employee training. OSHA's verification process includes an application review and a rigorous onsite evaluation by a team of OSHA safety and health experts.

Marine Corps Col. Kenneth Enzor, base commander of Marine Corps Logistics Base Barstow, and Ron Cooke, safety manager for Naval Air Station Key West, spoke about their path to their installations becoming VPP Star sites and the significant improvements that VPP has made in driving down their mishap rates.

This is the third year that DOD is participating in the Voluntary Protection Programs. VPP was created by OSHA to recognize industries that exhibit the best safety programs for their business sector. DOD already has shown VPP improves safety records and readiness of its civilian and military personnel, officials said, but they acknowledged that more needs to be done.

The idea that accidents are a cost of doing business is a mindset that is intolerable, Acting Deputy Undersecretary of Defense for Readiness Joseph J. Angello Jr., told the conferees, emphasizing that a cultural change toward a goal of "zero preventable accidents" is the ultimate goal.

Mr. Angello, who is also the executive secretary of the Defense Safety Oversight Council, said safety and readiness are closely intertwined, and that the VPP is the cornerstone for addressing workplace safety in DOD. One of the goals of the DSOC is to keep safety at the forefront for DOD leadership, he noted.

"[VPP] gives us the tools in DOD to make sure we preserve our assets, our people, our equipment," Mr. Angello said. "It gives us the tools to be the best we can be."

Addison D. Davis, deputy assistant secretary of the Army for environment, safety and occupational health, echoed Mr. Angello's emphasis on culture change in DoD, speaking to a need to make safety a natural part of daily activity.

Mr. Angello and Mr. Davis also emphasized that safety is directly linked to readiness, and said readiness is the bottom line for senior leaders at DOD.

The focus of the two-day conference, hosted by the VPP Center of Excellence, was to learn about the progress made by installations and also to encourage participants to share lessons learned and best practices, officials said. One of the most common themes was the importance of employee participation in VPP. Many presenters noted that their progress and successes could not have happened without participation by the work force.

By incorporating leadership and employees into worksite analysis, hazard prevention and safety and health training, officials said they hope ultimately to prevent injuries, preserve productivity and save DOD billions of dollars, thus enhancing readiness across the board.

## **Going Solo At Work Can Be Risky Business**

Every job has hazards. Being exposed to those hazards without anyone around as backup makes them all the more dangerous. So whether you work in a taxicab, a hospital, a gas bar kiosk or the front desk of an office tower, you must have a plan to ensure you can be safe on the job.

Lone workers in any job need protection. Here's a summary of how to get that protection: First of all, as you would in any work setting, determine what the hazards are. Talk to the employee(s) about the tasks they perform and how to make them safer. Make sure they have the right training.

If possible, find a way to avoid anyone having to work alone. If someone must work alone, establish a procedure whereby the worker regularly checks in with someone from the company. Your workplace should have a formal procedure that allows the worker to get in touch, either visually or verbally. This check-in procedure could, for example, identify one main person to be the contact at the office, plus a backup, and perhaps have that person periodically contact or visit the lone employee. The company also should have an emergency action plan to follow if the lone employee does not check in at the pre-determined time. The plan should consider and be appropriate for both off hours and regular business hours.

If an incident does happen, investigate and report it as soon as possible. Take corrective action to make sure it doesn't happen again. You must also report any near misses involving the lone worker. Analyze what happened and, if necessary, change company policy to make workers safer.

As you assess the hazards at your workplace, consider who is doing the job. You must also factor in how long the person will work alone, what the job entails and where the site is located. Schedule higher risk tasks to be done during normal business hours, or when another worker capable of helping in an emergency is present.

## **Putting an End to Workplace Bullying**

Not all workplace hazards come from machines or dangerous substances. In some circumstances, the very people we work with can cause harm and make us ill. When we are subjected repeatedly to treatment or behaviours that are intended to humiliate, demoralize or undermine our credibility - we are being bullied.

### **Bullying behaviours**

Bullying can include spreading malicious gossip or lies; excluding or ignoring someone socially; intimidating; physically abusing or threatening abuse; yelling or using profanity; making jokes that are obviously offensive; establishing impossible deadlines; assigning unrealistic workloads, undermining or deliberately impeding a person's work; and criticizing habits, attitudes or private life. These are just a few examples and not by any means a complete list.

### **How is bullying harmful?**

Bullying is becoming more widely recognized as a serious workplace problem that can cause undue stress among workers. Bullying does more than hurt someone's feelings. A recent American survey on workplace bullying, conducted in 2007 by the Workplace Bullying Institute (WBI) found that bullying caused stress-related health problems in 45% of people who were bullied. Overall 37% of American workers had been bullied at work.

The study also found that 77% of victims eventually lose their jobs. 40% of the participants who said the bullying eventually stopped, reported that they had made it stop by voluntarily leaving the company.

A host of health problems have been associated with workplace bullying. These include stress-related conditions such as high blood pressure, anxiety, panic attacks, depression and post-traumatic stress syndrome.

The workplace suffers, too. Bullying affects the overall health of an organization and can cause an increase in stress-related absenteeism and turnover. With the loss of employees comes a loss of

accumulated wisdom and experience as well as higher costs for employee assistance programs (EAPs) and recruitment. When morale is down, employees are less productive and the company is less profitable.

### **Who are these bullies?**

Bullies can be anyone in your workplace. However according to the WBI study, 72% of the bullies were bosses. The most frequently bullied targets were non-supervisory employees, and women (in 57% of cases).

### **What can be done about it?**

Victims of bullying should act quickly by firmly telling the person that the behaviour is unacceptable and asking for it to stop. It would also be wise to ask a trusted supervisor, manager and/or union member to be present. The bullied person should document everything by keeping a journal of daily occurrences and any letters, memos, e-mails and other correspondence from the bully. This information is important because bullying is characterized not only by the nature of incidents, but by the number, frequency and pattern of the behaviour.

If you are being bullied, do not retaliate. It's important to make it clear who is the perpetrator (not you!). Make sure to report the harassment to the appropriate manager or supervisor or, if necessary, to the next level of management.

Under all occupational health and safety law, employers have a general duty to protect employees from hazards that affect their physical safety or mental health. In addition, some jurisdictions have specific regulations that may apply to situations of workplace bullying (e.g. Quebec, Saskatchewan and Manitoba). Management's commitment is best communicated in a written policy. Since bullying is a form of violence in the workplace, employers should write a comprehensive policy that covers a range of incidents (from bullying and harassment to physical violence).

### **General tips for the workplace**

- Encourage everyone at the workplace to treat one another in a respectful and professional manner.
- Have a workplace policy in place that includes a reporting system.
- Treat all complaints seriously. Try to resolve situations before they get serious or out of control.
- Educate everyone that bullying is a serious matter; what is considered bullying, and whom they can go to for help.
- Train supervisors and managers in how to deal with complaints and potential situations. Encourage them to address situations promptly and confidentially whether or not a formal complaint has been filed.
- Have an impartial third party help with the resolution, if necessary.

### **A Stricter OSHA Seen After Sun Series**

(By Alexandra Berzon, The Las Vegas Sun, April 22, 2008)

Contractors and union officials say the state's Occupational Safety and Health Administration appears to be getting tougher on construction companies in the wake of a Sun examination of how the agency has investigated construction deaths on the Strip.

Most recently, the agency did not back down from its recommended citations against a subcontractor in connection with the death at the Cosmopolitan of a safety engineer. A subcontractor, Reliable Steel, had protested the findings, but OSHA officials refused to budge during an informal conference with the employer.

These informal settlement conferences allow OSHA officials to amend the citations that follow an investigation. If OSHA and the company don't reach an agreement, the case goes before a review board.

Following the nine fatal accidents investigated by Nevada OSHA over a 16-month period, contractors and their subs persuaded the state to remove or water down citations for safety violations, the Sun found.

Federal OSHA representatives who monitor Nevada OSHA have told the Sun that citations following a fatality should be withdrawn only rarely.

In the two informal conferences conducted by the agency after the Sun began inquiring, it did not soften its findings in either.

"We suspect they are getting tougher," a safety engineer at a large Las Vegas general contractor said. "They're trying to save face, of course."

State OSHA administrators declined to comment.

The most recent settlement conference report was released to the Sun on Monday. An OSHA investigator had found several safety violations in the wake of the Jan. 14 death of Michael Taylor, a safety engineer at the Cosmopolitan. Reliable Steel had argued it was not at fault, but following the informal conference an OSHA administrator said the company did not provide enough additional evidence to justify changing the agency's conclusions. The company is appealing the case to the review board before which OSHA will have to defend its findings.

"OSHA is making an example of us," Reliable Steel President Timothy Puetz said. "They're not going to make decisions (during the informal conference) so that they're not criticized."

In the first case after the Sun's inquiries, Nevada OSHA met Feb. 27 with subcontractor Schuff Steel regarding the case of David Rabun, an ironworker who fell down an elevator shaft at the Cosmopolitan in November. The agency refused to change its findings in that case, which will also likely go to a review board.

The seemingly weakening position of contractors during OSHA investigations has not gone without notice.

At a safety orientation training conducted Monday at Boyd Gaming Corp.'s Echelon by Tishman Construction, the site's construction manager, a trainer reportedly told workers OSHA would probably be more stringent, given the attention now being paid to construction deaths. The trainer said there would be zero tolerance for any worker deviation from safety guidelines, according to a person who attended the training.

Events surrounding Taylor's death have stood out as particularly haunting among the rash of recent Strip fatalities. Taylor was employed by general contractor Perini to find and correct safety violations at the Cosmopolitan. No one saw what happened, but investigators believe the 58-year-old fell five floors when

a corner iron post that helped hold up a guardrail system collapsed. The corner posts are usually held in place by support pieces called kickers, welded to the bottom, but Reliable Steel had removed the kickers to install a beam and had not replaced them, according to the OSHA investigation.

OSHA fined Reliable Steel \$2,850 for two “serious” and two “regulatory” violations.

The company appealed and met April 3 for an informal conference with OSHA Administrator Jimmie Garrett and inspector Corey Church. Also attending was Chuck Lenhart, the Las Vegas business agent for Ironworkers Local 433, who became the first union leader to attend an informal conference during investigations following the recent construction deaths.

Taylor was not in a union, but Lenhart said he wanted to attend the conference nonetheless to find out more about efforts to develop an industrywide standard for guardrail systems, which was at issue in the case.

Like other local labor leaders, Lenhart learned from the Sun that union representatives are allowed to attend informal conferences.

At the conference, Reliable Steel’s Puetz presented the findings of an engineering report that he said proved subcontractor Schuff Steel was responsible for not welding the iron posts to support enough weight. But Garrett deemed the engineering report insufficient.

“No documentation or evidence could be produced to justify such a request (to remove citations),” Garrett wrote.

In the past, Garrett has dismissed citations against contractors even without additional documented evidence, and without offering additional explanation.

Puetz said his company will continue to defend its safety record.

To contest the citations, he’s spending well more than the \$2,850 OSHA has ordered the company to pay in fines.

“We’re trying to make the point that the industry has to be changed,” Puetz said. “We have to have a standardized (guardrail) system so this doesn’t happen again.”

### **Lessons Learned: U.S. Department of Labor's OSHA Fines Valero Energy Corp. in Port Arthur, Texas, More Than \$100,000 for Alleged Safety Violations**

The U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) has cited Valero Energy Corp. and proposed penalties totaling \$101,750 for alleged safety violations. OSHA issued the citations alleging 13 serious, two repeat and one other-than-serious violation following an investigation that began Oct. 16, 2007, at the company's Port Arthur refinery. The inspection was initiated as part of OSHA's National Emphasis Program for petroleum refineries. Valero, headquartered in San Antonio, has about 830 employees at its Port Arthur facility.

"We are pleased that Valero has expressed a willingness to take quick, corrective actions in resolving the safety and health violations," said Dean McDaniel, OSHA's regional administrator in Dallas.

Serious violations include failing to: implement accurate process safety information, provide employees with accurate operating procedures, have an adequate system in place to advance recommendations from process hazard analysis and correct equipment deficiencies. A serious violation is one with potential to cause death or serious physical harm to employees when the employer knew or should have known of the hazard.

The repeat violations address the company's failure to implement inspection and testing procedures that follow OSHA's standards and regulations. Repeat violations are issued when an employer previously has been cited for the same, or a substantially similar, violation that has become a final order.

The company has 15 business days from receipt of the citations to comply, request an informal conference with OSHA's area director in Houston, or contest the citations and penalties before the independent Occupational Safety and Health Review Commission.

### **Lessons Learned: OSHA Cites High Rock for Safety** (Pacific Daily News • April 23, 2008)

The U.S. Department of Labor's Occupational Safety and Health Administration has cited High Rock Construction Corp. for alleged safety violations at two Guam jobsites, according to a news release from the agency. Inspectors noted the violations at construction sites in Talofofu and Yona in October 2007 as well as January and February 2008.

"What we're seeing is a pattern of safety violations by this employer," said Richard Terrill, acting regional administrator for OSHA in San Francisco. "These violations have the potential to cause death or serious injury to company employees, and we're taking this matter very seriously."

OSHA has cited High Rock Construction for one willful violation, with a proposed penalty of \$56,000, for failing to provide and enforce the use of fall protection where employees were exposed to a 20-foot fall hazard, the news release stated.

OSHA has assessed a total of \$34,400 in proposed penalties for 13 serious violations, including failure to have an employee at the worksite trained in first aid; failure to have available first aid services or transportation; lack of fall protection in hoisting areas; lack of handrails and guardrails on stairs, walkways or bridges; and lack of foot, eye and face protection. Serious violations exist when there is a substantial probability that death or serious physical harm could result, and the employer knew or should have known of the hazard, according to the news release.

In addition, the release stated, OSHA also has assessed a total of \$45,000 in proposed penalties for five repeat violations involving failure to provide fall protection and head protection, poor housekeeping and using a damaged flexible cord.

## **Lessons Learned: Cintas Death Calls into Question OSHA Enforcement** (By Katherine Torres, Occupational Hazards, April 24, 2008)

House lawmakers and several key witnesses at an April 23 House Workforce Subcommittee hearing emphasized the need for OSHA to strengthen its enforcement efforts, conduct corporate-wide investigations and mitigate hazards so large, multiple-facility corporations like Cintas Corp. are held accountable for the safety of their workers.

The death of Eleazar Torres Gomez, a Cintas employee who fell from a conveyor belt into an industrial dryer at the company's Tulsa, Okla., facility in March 2007, prompted Congressional leaders like Rep. Lynn Woolsey, D-Calif., and Rep. Phil Hare, D-Ill., to deem the incident representative of how OSHA's lack of enforcement and oversight of workplace safety and health conditions contributes to such tragedies.

“We want to know if there are ways to enable OSHA to more effectively hold large employers accountable for compliance throughout their operations and ensure broader abatement of hazards,” said Woolsey, who chairs the workforce committee.

Cintas, which has 34,000 employees in hundreds of locations, faces a proposed OSHA fine of \$2.8 million – the largest service-sector fine in the history of the agency – followed by a \$117,500 penalty against a Cintas facility in Columbus, Ohio, and a \$196,000 citation at the company's Mobile, Ala., plant.

But several experts at the hearing claimed that OSHA isn't doing enough. Randy Rabinowitz, a labor union lawyer based in Washington state, suggested that Congress require the agency to conduct corporate-wide investigations when deemed necessary. She stated that OSHA's Enhanced Enforcement Program (EEP) “looks good on paper,” but is too limited and leaves OSHA with too much discretion to follow through with investigations.

“The agency doesn't have to do anything with it,” she said. “And it's just unfortunate, because many times, it's just an empty promise.” She also added that the agency should try to leverage its resources to identify patterns of misconduct and demand abatement of company-wide problems.

### **Implementing Safety and Health Management Systems**

According to ORC Worldwide Senior Vice President Frank White, OSHA currently has sound procedures in place, but he questions whether those procedures are functioning correctly. White added that the agency faces longstanding institutional impediments to adopting more corporate-wide orientation such as the Occupational Safety and Health (OSH) Act, which grounds its entire enforcement regime on individual workplaces and not on whole corporate entities.

He also stressed the importance for companies to adopt safety and health management systems. A comprehensive management system, he said, is effective in eliminating injuries and illnesses “through a continuous process of identifying, assessing and reducing risks.”

After the hearing, White told *OccupationalHazards.com* that OSHA can do a better job in promoting and advocating the value of safety and health management systems. He noted the agency attempts this via compliance initiatives such as its Voluntary Protection Program, but isn't always successful as these programs only focus on top-tier safety companies and not on others that aren't doing as well safety-wise.

Emphasizing that good management systems eliminates all risks, not just those covered by OSHA standards, White said he encourages the agency to look for new ways to promote and advocate these systems. He pointed out that OSHA regional and area offices could create more awareness by referring companies to the 2005 ANSI Z10 American National Standard for Occupational Health and Safety Management Systems, which includes an up-to-date and complete description of these systems. He also suggested that OSHA includes a link to the standard on its Web site and promote safety and health managements systems in its e-newsletters as a critical tool to reducing risk and achieving compliance.

“In the long term, nothing will have a more significant impact on the reduction of risks, injuries and illnesses, as well as improved compliance, than the widespread adoption of these systems – OSHA can play a critical role in this effort,” White said.

### **Lessons Learned: Safety Programs Help County Save \$100K This Year** (by Jaime Powell, Caller Times, April 16, 2008)

Six years after Nueces County instituted across-the-board departmental budget cuts and employee layoffs to offset a record \$2.87 million workers compensation insurance premium and a resulting \$3.6 million budget deficit, the county has safety programs in place that have made it one of the best performers in the state, officials said Wednesday.

Workers compensation premiums are administered through the nonprofit Texas Association of Counties. To spread the cost of medical treatment and wages paid to workers injured on the job, some 200 Texas counties pool their resources and pay an annual premium based on their individual history of on-the-job injuries over the previous three years.

The more than \$3.4 million pool paid to Nueces County workers injured on the job between 1999 and 2001 set a \$2.87 million premium for 2003 and triggered a series of layoffs and safety procedures within Nueces County to lower that number.

This year, Nueces County's premium has dropped to \$655,694, a decrease of more than \$2 million since 2002, and a 13.4-percent reduction from a \$757,575 premium in 2007.

The county also will see \$257,000 in additional savings this year via a renewal credit tied to the county's performance, said Elna Christopher, a spokeswoman for the Texas Association of Counties, which oversees workers compensation insurance programs for the majority of Texas 254 counties.

"They have done a whole bunch better," Christopher said. "Out of the five largest counties that do workers comp through us, including Nueces, McLennan, Bell, Cameron and Brazoria, they have the second lowest loss ratio, which is good."

Of the county's 145 claims in 2007, 40 percent came from sheriff's department and jail employees. County Risk Manager Servando Caballero attributes that number to employees working in high-risk situations dealing with criminals and inmates.

In 2002, the county's data showed the overwhelming majority of workers compensation claims were for injuries classified as bruise/contusions, sprains and strains.

The number of lost-time accidents fell from 34 in 2002 to eight in 2007, Caballero said.

Based on current trends, including a 90-percent decrease in claim amounts from 2002 to 2007 and a 95.4-percent decrease in the number of lost work days during the same period, Caballero predicts the county might see another \$100,000 savings in 2009.

County Commissioner Chuck Cazalas, who was in office during the 2002 budget crisis brought on by excessive workers compensation claims, said safety programs for county employees were few at that time.

"We all agreed that the expenses were too high and that there were too many injuries. Every single court meeting for about six months, we had a report from Servando on what he was doing," Cazalas said. "He was giving feedback to the county employees what it was costing the county. ... We said we would give pay increases if we could drive down safety expenses, and that is exactly what we did."

The county has taken strides toward fixing the problem by instituting regular mandatory safety meetings with employees and communicating what workers compensation claims were costing employees in things such as pay raises. The county also created a highly successful return to work program that keeps county employees on the job.

"What happens is if you are injured digging a ditch and the doc says light duty, we have a program where we can put them in an administrative job and let them work there at same pay until they are recovered and ready to go back to work," said County Judge Loyd Neal. "It lowers the actual claims cost because you are managing their health and their return to work."

The cost of workers compensation claims paid to Nueces County employees that gave the county the distinction of being the riskiest member in the Texas Association of Counties in 2003, now has led to new, more favorable recognition.

"Few Texas counties have implemented and managed their workplace safety as effectively as Nueces County," said Ernesto Galindo, a safety specialist with the Texas Association of Counties. "When other counties want to know what works, we point to the efforts of Nueces County."

**Safety Training Strategies – “Brain Bafflers”** (by Leroy Harmon from Weyerhaeuser Corrugated Sheets) [from "Safety Stuff" by Richard Hawk Inc.]

In my slide presentations, I insert a few "trivia questions" related to the training topic to get the participants involved and think outside of the box. For fall protection training I might insert the question: How far will you fall in three seconds?, or, Is it better to jump off a falling ladder or ride it down and roll off?, or, a brain baffle question like, "Are 1997 nickels worth more than 1992 nickels?" (answer \$.25 more).

This usually stimulates some discussion and keeps the presentation interesting. I insert a trivia question at natural changes in the presentation or about every 10-15 slides. Those who participate with answers or discussion are rewarded at the time with a prize like a candy bar or gas gift card.

Employees look forward to the training in anticipation of what the questions might be.

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

- Ischemic heart disease is the most common cause of death in the world (12.6%).
- Road traffic accidents are the 10th leading cause of death (2.1%).
- During the height of his career, Michael Flatley--star of Riverdance and Lord of the Dance--insured his legs for \$47 million.
- Epstein-Barr Virus (EBV), considered the cause in infectious mononucleosis, is attributed to seven thousand deaths per year.
- In Glendale, Arizona, it is illegal to drive a car in reverse.
- With the exception of the 9-11 attacks, each year, approximately sixteen people are killed on the ground when planes fall from the sky.
- A psychological survey from Mount Holyoke compared Mother's Day and Fathers' Day. Though fathers got less attention (3.5 hours for dads as opposed to 5.5 for moms to be exact) they found their day more enjoyable than moms did.
- The word hangnail--what we now call a small piece of fingernail that's partially detached from the rest of the skin that can bother you all day--originally had nothing to do with a hanging nail. The original word was angnail. The *ang* referred to the pain it caused as in *ang/uish*.