



# MIOASHA NEWS

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Vol. 17, No. 2 (r)	Spring 2013

## Workplace Fatalities Drop in 2012

Twenty-six Michigan workers died on the job in 2011. These workers left home healthy and whole – but never came back. The twenty-six deaths were program-related, which means their occupations are covered by MIOASHA rules.

Nothing can replace these lives and our deepest sympathies go to the families and co-workers. However, we can learn from what happened to prevent a similar tragic incident.

The charts below show the top five causes of fatalities in construction and general industry over the past five years. We encourage you to use this information to identify hazards in your facility and take steps to eliminate the possibility of a fatality.

### Top General Industry Fatalities

Reducing the number of fatalities is the top goal of the General Industry Safety and Health Division. In 2012, there were 17 general industry fatalities, which was a decrease of 35 percent from 2011. This is the second lowest number of fatalities in five years.

Between 2008 and 2012, MIOASHA investigated 104 general industry fatalities. The leading cause of death was “crushed by,” with 25 fatalities. In 2012, “crushed by” was tied with “struck by” as the leading cause of death.

Below are descriptions of the six “crushed by” fatalities in 2012.

**2/8/12** – A 67-year-old dairy farm laborer was crushed when a pay loader drove over him.

**5/30/12** – A 53-year-old forklift driver was moving a raised load that

exceeded the maximum capacity of the forklift. While backing the forklift, she hit a crack in the pavement and the forklift tipped over. She was ejected and her fork lift landed on her crushing her.

**6/6/12** – A 46-year-old manufacturing supervisor tried to retrieve a part from a press. The press activated and compressed on him, crushing him to death.

**6/22/12** – A 64-year-old tree trimmer was crushed while cutting down a branch of a large oak tree. For more details about this fatality, turn to page 5.

**11/9/12** – A 23-year-old laborer was working at a logging operation cutting limbs off downed trees. Approximately 47-feet away, a second employee cut a tree that was approximately 90-feet tall. The tree fell the wrong way landing on the employee cutting limbs.

**11/13/12** – A 36-year-old tree trimming and landscape business owner was apparently attempting to replace or move a shear pin that had become dislodged under the bed of a dump truck. His head was crushed between the bed and the frame of the truck when the bed suddenly dropped.

### Top Construction Fatalities

Although the number of construction fatalities has gone down, construction work remains a dangerous industry in Michigan and across the U.S. In 2012, only 3.33% of the working force in Michigan was construction, but accounted for 34% of the workplace fatalities. MIOASHA investigated 9 construc-

tion fatalities in 2012, which is the lowest number of construction fatalities to date. Although 9 fatalities is a low number, the fatality rate for construction has remained fairly consistent over the last 5 years at 8 fatalities per 100,000 workers.

The leading causes of death for construction workers in 2012 were “falls” and “struck by” with three fatalities each, two of the struck by fatalities occurred within a work zone during road construction.

Below are descriptions of the three fatal “falls” in 2012.

**01/06/12** – A 67-year old plumber was drilling through a floor joist while standing on a 6 foot step ladder. He fell from the ladder and struck his head and chest on the floor. The drill motor he was using may have bound up, causing him to lose his balance.

**01/11/12** – A 27-year old painter fell 140 feet into a river while he and two other painters were dismantling a section of a suspended scaffold that was set up underneath a bridge. The victim was removing the clips that secured the cable to the decking when one of the decking sheets dropped down to a vertical position. The victim was not wearing a personal fall arrest system.

**07/2/12** – A 38-year old ironworker fell 26 feet during a renovation project where an old deteriorated wood plank roof deck was being replaced with corrugated steel decking. The worker walked onto a section of the old roof deck that had been scored with a circular saw when it gave way.

Top General Industry Fatalities 2008 – 2012						
Category	2008	2009	2010	2011	2012	Total
Crushed By	5	4	4	6	6	25
Fall	4	4	9	4	1	22
Struck By	5	2	2	5	6	20
Electrocuted	2	2	6	2	1	13
Caught In	1	2	0	2	3	8
Other	3	0	6	7	0	16
<b>Total</b>	<b>20</b>	<b>14</b>	<b>27</b>	<b>26</b>	<b>17</b>	<b>104</b>

Top Construction Fatalities 2008 – 2012						
Category	2008	2009	2010	2011	2012	Total
Fall	5	2	3	4	3	17
Struck By	6	2	1	1	3	13
Electrocuted	3	2	1	3	2	11
Caught By	1	2	3	2	0	8
Cave In	0	1	2	0	1	4
Other	0	1	1	0	0	2
<b>Total</b>	<b>15</b>	<b>10</b>	<b>11</b>	<b>10</b>	<b>9</b>	<b>55</b>

## Michigan 2011 Census of Fatal Occupational Injuries (CFOI) Summary

The annual **Census of Fatal Occupational Injuries (CFOI)** is compiled by the *U.S. Bureau of Labor Statistics*. The rate of fatal work injury for U.S. workers in 2011 was 3.5 per 100,000 full-time equivalent workers down from 3.6 in 2010.

Below are some key indicators from the 2011 CFOI Report for Michigan.

- Transportation incidents lead all fatal events and accounted for 33% of all fatalities.

- Violence and other injuries by persons or animals was second with 24% of all fatalities.

- 43% of fatally injured workers were 35-54 years of age.

- 93% of fatally injured workers were men.

- Fatal injuries among Hispanic or Latino workers were down 60%. In 2011, there were 4 fatalities and in 2010, there were 10 fatalities.

- 83% of fatally injured workers were in the ethnicity category White, non-Hispanic.

- The industry with the largest number of worker fatalities was Agriculture, Forestry, Fishing and Hunting.

- Vehicles were identified as the greatest source of injury accounting for 31%.

- 35% of those fatally injured were self-employed.

- The occupation group with the largest number of fatalities was management occupations accounting for 19% of all fatalities.

- Transportation and Material Moving Occupations was the second largest accounting for 15% of all fatal injuries.

The full CFOI report is available at [www.bls.gov/iif](http://www.bls.gov/iif)





Martha Yoder  
Director

**Michigan Called the "Come Back" State**

Recently we are hearing reports of good news that Michigan is the "come back" state.

In his State of the State address, Governor Snyder reported that Michigan is the sixth fastest growing state in the nation with 177,000 jobs added since 2009. Michigan is experiencing the ninth fastest rate of income growth in the country as well.

These reports are being confirmed by what our MIOSHA consultation and enforcement field staff report. I am hearing that more frequently, staff is visiting growing workplaces. In these workplaces orders are up, people are being hired and machinery is being added. These are definitely positive reports.

**Safety and health challenges**

Expansion often happens quickly and creates challenges in keeping employees safe and healthy. Rapid growth may cause strain in existing safety and health management sys-

tems and products becomes cramped. He reports seeing an increase in the occurrence of aisles blocked and material stacked in pedestrian walkways. He is also observing hazards created when work areas become cramped by machines moved closer together.

**Be proactive**

We encourage you to make MIOSHA your partner during these times of expansion by taking advantage of our free, voluntary CET services. Our CET staff is available to visit workplaces to conduct hazard surveys, review specific equipment or machinery to determine whether it is in compliance with MIOSHA requirements, and review written programs and procedures. Our CET services also include assistance with needed safety and health training.

In addition both CET and enforcement staff can provide useful guidance by phone on MIOSHA program requirements. Both have access to the same interpretations, training and instructions.

Another useful resource is the "Ask MIOSHA" feature on the MISOHA website which can be used anonymously to obtain written answers to your questions.

We encourage you to use one of these "risk free" ways to obtain information on how to keep your workplace safe and healthful during good times of increased work activity!

*"Be proactive by taking the action necessary to ensure your workplace is safe."*

tems allowing hazards to develop in the workplace.

Federal OSHA reports variables related to a disproportionate share of injuries and illnesses at work. These variables are more prevalent during times of expansion:

1. Younger employees have higher incidence rates.
2. New employees have higher incidence rates
3. Medium-size firms have higher incidence rates than smaller or larger firms.
4. Incidence and severity rates vary significantly by NAICs code.
5. The use of hazardous substances impacts the rate of incidents.

One of our Consultation Education and Training (CET) consultants told me that along with the great business expansion, he is seeing an increase in workplaces with blocked exit doors as space to store materi-

**Eleven deaths in 80 days**

So far in 2013, Michigan has experienced one worker death every 7 days. As of March 21, MIOSHA is investigating the deaths of eleven employees. If this rate were to continue, Michigan would end the year with 52 MIOSHA-related worker deaths. This would be the greatest number of worker deaths since 2006. Last year there were 26 MIOSHA-related deaths. 2009 saw the lowest number with 24. Worker deaths in 2013 include three falls, two crushed, one struck-by and one run over incidents.

We urge every employer and employee to be proactive by taking the action necessary to ensure your workplace is safe. If you need help or assistance in ensuring your workplace is safe, MIOSHA is here with resources to help. Our mutual goal must be that every employee goes home at the end of their shift every day!

**MIOSHA Strategic Plan Update**

Like many organizations, MIOSHA uses a strategic plan to focus resources and determine the best ways to accomplish their mission or purpose. The agency is currently developing its fourth strategic plan. Previous MIOSHA strategic plans were created by internal MIOSHA workgroups who composed the various goals and objectives of the plan. The next step involved convening a MIOSHA stakeholder meeting where the draft plan was unveiled to obtain feedback prior to finalizing.

As part of our continuous improvement efforts, a new element was added to the beginning of the strategic planning process: focus groups. Last fall a separate focus group was held for each of the sectors of construction, general industry, and labor. The valuable input received from these focus groups is being used by the internal MIOSHA workgroups drafting the next plan. Themes heard from the focus groups included a call for MIOSHA to continue its work to be consistent in information sharing throughout the agency and enhancing website offerings including the best practices learned from various industries through MIOSHA interventions.

The MIOSHA Strategic Plan for fiscal years 2014 to 2018 will consist of two parts. Part 1 covers the health and safety aspects of MIOSHA. Part 2 will cover the wage and hour aspects. Currently, the draft plan has identified three main goals for each part.

Under health and safety, the first goal is to help assure improved workplace safety and health for all workers, as evidenced by fewer hazards, reduced exposures, fewer injuries, illnesses and fatalities. The objectives under the first goal will concentrate primarily on enforcement activities that target high hazard industries and those workplaces that are experiencing high injury and illness rates. The second goal is to promote employer and worker awareness of and commitment to safety and health to effect positive change in the workplace culture. The objectives under the second goal will concentrate primarily on consultative activities to change the safety and health culture in Michigan workplaces through partnerships, alliances, consultative audits and educational opportunities including the MIOSHA Training Institute (MTI).

Under wage and hour, the first goal is to improve cov-



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ered employers' compliance with the three wage laws administered by the division. The second goal is to educate customers about rights and responsibilities under the three wage laws. Much like the safety and health side of the plan, the first goal will concentrate primarily on enforcement and the second on consultative and educational assistance.

The third goal for **both parts of the plan** is to strengthen public confidence through continued excellence in the development and delivery of MIOSHA's programs and services. The objectives for this goal will center on how MIOSHA can better serve our customers.

With the main goals identified, internal workgroups are now developing the specific objectives for each of the main goals. When the draft is complete, we will invite MIOSHA stakeholders to provide feedback by posting the draft plan on the website for review and by inviting key stakeholder groups to a meeting to review and comment on the plan. The proposed timeline for the MIOSHA strategic planning process is:

Draft plan with goals and objectives	<b>April 2013</b>
Stakeholder meeting to unveil the draft plan	<b>May 2013</b>
Final MIOSHA Strategic Plan for fiscal years 2014 to 2018	<b>June 2013</b>

As you can see, considerable time, thought, and effort is expended to develop MIOSHA's strategic plan. Strategic planning continues to play a vital role in helping MIOSHA accomplish the mission of protecting the health, safety, earned wages and fringe benefits of Michigan workers!



Stakeholders in 2008 gave direct feedback to the last strategic plan. MIOSHA will have even more stakeholder input this cycle.

# MIOSHA Strategic Plan Results and Activities for FY 2012

Fiscal Year 2012 was a busy and successful year at MIOSHA. Each year MIOSHA reports activities and accomplishments to federal OSHA. As a state operating its own program for workplace safety and health, MIOSHA receives funding and oversight from federal OSHA to ensure that Michigan's program is "at least as effective" as federal OSHA.

MIOSHA's Annual Report to OSHA provides a summary of MIOSHA activities and results for the Strategic Plan, activities mandated by OSHA, and other program accomplishments. The strategic goals and emphases provide the focus for MIOSHA's enforcement, education and training, outreach, and administrative programs.

FY 2012 was the fourth year of Michigan's current five-year Strategic Plan, which covers FY 2009-2013. MIOSHA met or exceeded most goals for FY 2012 strategic plan emphases.

## Targeted Industries

One major strategic plan goal is to improve workplace safety and health for all workers measured by fewer hazards, reduced exposures, fewer injuries, illnesses and fatalities. As the focus of this goal, MIOSHA selected 13 general industries with Injury and Illness rates above the state average to receive increased consultation and enforcement attention. The goal is a 20 percent reduction in the injury and illness rates for targeted industries over the five years of the strategic plan. The FY2012 report noted reductions in the **Total Recordable Cases rate greater than 20 percent for 7 of the 13 general industries:**

- 34% Decrease for Wood Products,
- 32% Decrease for Plastics & Rubber Products Manufacturing,
- 49% Decrease for Nonmetallic Mineral Product Manufacturing,
- 27% Decrease for Fabricated Metal Product Manufacturing,
- 23% Decrease for Transportation Equipment Manufacturing,

- 48% Decrease for Recyclable Material Merchant Wholesalers,
- 21% Decrease for Merchant Wholesalers, Non-durable Goods.

## Reductions less than 20 percent were identified in three industries:

- 18% Decrease for Primary Metal Manufacturing,
- 12% Decrease for Hospitals,
- 3% Decrease for Nursing Homes.

## Two general industry groups included in the plan have seen rates increase:

- 9% Increase for Beverage and Tobacco Product Manufacturing,
- 2% Increase for Machinery Manufacturing.

For the last general industry group included, Landscaping Services, specific case rate data has not been available.

Construction is also a strategic plan target industry. This industry has experienced a 50 percent decrease in the Days Away, Restricted, and Transferred (DART) rate since the beginning of the strategic plan.

## Initiatives

During FY 2012, MIOSHA continued existing and initiated new activities to help meet the goal to eliminate or reduce workplace fatalities, injuries, and illnesses. Some major program accomplishments during FY 2012 included:

- Implemented the third phase of "Connecting MIOSHA to Industry" training to strengthen skills in collaboration and forming lasting relationships with employers and employees. The goal is to create collective ownership for workplace safety and health.

- Continued implementation of the MIOSHA Training Institute (MTI) Level One and Level Two courses, with a significant increase in the number of Level Two courses and attendees.

- Participation in the eighth annual "Take a Stand Day" with 233 requests for a special one-on-

one consultation without citations or penalties from MIOSHA consultation and enforcement staff.

## Enforcement

MIOSHA has a long tradition of compliance presence in the workplace, using planned or routine visits as a proactive opportunity to identify and address hazards before an injury occurs. This philosophy emphasizes the need to educate before regulating and using compliance visits as an opportunity for dialog and information sharing. During FY 12, MIOSHA conducted 5,393 compliance visits. These visits included 4,560 programmed or routine visits, 28 accident investigations, 510 employee complaints, 154 referrals and 141 other visits.

MIOSHA compliance visits included establishments employing more than 460,000 employees and identifying 14,261 hazards. MIOSHA compliance visits included 5,219 private sector and 174 public workplaces.

## Consultation, Education and Training (CET)

MIOSHA continued strong outreach efforts during FY2012 to provide consultation, education and training to Michigan's employers and employees. During FY2012, CET provided more than 3,508 consultations at employers' workplaces and 210 seminars and workshops for the public. Some consultation strategic plan goals and accomplishments include:

- Increasing MTI students receiving certificates by 50 per year with a FY total of 117 new certificate holders.

- Awarding three Michigan Voluntary Protection Program designations with a FY total of six new designations awarded.

- Signing one or two new partnerships per year with three new partnerships signed in FY2012.

With 2013 well underway, MIOSHA is striving to continue to meet or exceed our established goals before the end of the strategic plan to help create safe and healthful workplaces throughout Michigan.

## ORR Update

### Facts about the Office of Regulatory Reinvention MIOSHA Rules Project

MIOSHA Standards Section has compiled the following statistics on the number of rules and standards sets affected by the recent MIOSHA Rules Project.

#### Construction

22 construction standards were affected including:

- 2,238 individual rules, or paragraphs within a rule;

- 693 rules, or paragraphs within a rule, were eliminated.

#### General Industry

46 general industry standards were affected including:

- 4,051 individual rules, or paragraphs within a rule,;

- 168 rules, or paragraphs within a rule, were eliminated.

#### Occupational Health

39 occupational health standards were affected

including:

- 498 individual rules, or paragraphs within a rule;

- 166 rules, or paragraphs within a rule, were eliminated.

In implementing the changes, MIOSHA staff analyzed, and made recommendations for 6,787 individual paragraphs or rules. Through diligent work, the project was completed ahead of schedule.

### Legislation Amends MIOSHA Act

The Workplace Safety Advisory Rules Committee and the ORR recommended four major MIOSHA-related statutory changes. Governor Snyder signed the four bills into law and they are now Public Acts (PA) 415, 416, 447, and 448 of 2012.

PA 415 of 2012 requires that Michigan workplace safety rules will exceed federal standards only when there are circumstances unique to Michigan that require going beyond federal standards, or when a broad consensus of union and non-union employers and employees agree that a standard is necessary.

PAs 416, 447, and 448 of 2012 eliminate the Gen-

eral Industry Safety Standards Commission, the Occupational Health Standards Commission and the Construction Safety Standards Commission. Given that the commissions' rulemaking authority were transferred to the Department of Licensing and Regulatory Affairs (LARA) director in 1996, Governor Snyder and legislators found that the commissions weren't serving their original purpose and were no longer necessary. MIOSHA will continue to involve stakeholders by convening advisory committees to help with rule adoption and implementation.

### Status of ORR recommended changes to MIOSHA Standards

Print and website versions of the standards will be updated when rule changes have completed the administrative rule promulgation process and been filed with the Secretary of State. As the new standards become filed and effective, the changes of standards will be reflected in our hard copies/web versions.

To help communicate these changes, MIOSHA has created a status update page on the website which can be accessed on [www.michigan.gov/miosha](http://www.michigan.gov/miosha).

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## Residential Fall Protection Enforcement Policy Ends

By: *Patty Meyer, Director  
Construction Safety and Health Division*

On March 19, 2013, after almost 19 months, MIO-SHA rescinded their Residential Fall Protection Enforcement Policy. The policy was put in place to give residential employers additional time to come into compliance with the revised CSHD-COM-O4-1R1, Residential Fall Protection Compliance Criteria instruction that became effective on June 16, 2011. The previous instruction allowed residential employers to use a fall protection plan for specific work operations without proving that conventional fall protection (guardrails, safety nets, or personal fall arrest system) was infeasible or created a greater hazard. Under the revised instruction, residential employers must comply with Part 45 – Fall Protection, Rule 1926.501(b)(13) exactly as it has always been written:

Each employee engaged in residential construction activities 6 feet or more above lower levels shall be protected by guardrail systems, safety net systems, or personal fall arrest system unless another provision in paragraph (b) of this section provides for an alternative fall protection measure. Exception: When the employer can demonstrate that it is infeasible or creates a greater hazard to use these systems, the employer shall develop and implement a fall protection plan which meets the requirement of 1926.502.

Note: There is a presumption that it is feasible and will not create a greater hazard to implement at least one of the above-listed fall protection systems. Accordingly, the employer has the burden of establishing that it is appropriate to implement a fall protection plan which complies with 1926.502(k) for a particular workplace situation, in lieu of implementing any of those systems.

Falls continue to be the number one reason for worker deaths in construction. At the time of this printing there have been four fatal construction falls already in 2013 – two of the fatal falls were residential construction. The falls must stop! It is imperative that residential employers are aware of their responsibility to protect their employees and provide the appropriate fall protection and training to their employees.

In April 2011, MIO-SHA launched a Residential Fall Protection Initiative with the Michigan Association of Home Builders (MAHB) to bring awareness to fall hazards in the residential industry and help contractors comply with the fall protection requirements. Training seminars and assistance are available. For more information contact the CET Division at 517.322.1809 or go to [www.michigan.gov/mioshatraining](http://www.michigan.gov/mioshatraining).

## Articulating Knuckle-Boom Truck Cranes

By: *Paul Wrzesinski, Safety Manager*

These exemptions do not apply when articulating knuckle-boom truck cranes are used under the following conditions and criteria. (All of Part 10 will apply, including the requirement for a certified crane operator.)

- When a crane is used to hold, support or stabilize the material to facilitate a construction activity, such as holding material in place while it is attached to the structure.

- When handling or delivering prefabricated components such as, but not limited to, precast concrete members or panels, roof trusses constructed of wood, cold formed metal, steel, or other materials; and prefabricated building sections such as, but not limited to, floor panels, wall panels, roof panels, roof structures, or similar items.

- The material that is being handled or delivered is a structural steel member, e.g. steel joists, beams, columns, bundled or unbundled steel decking or a component of a systems-engineered metal building as defined in construction safety standard Part 26 “Steel Erection,” as referenced in R 408.41003a.



A knuckle-boom crane in action.

The **articulating knuckle-boom truck crane** is one unique piece of equipment where the revised Construction Safety Standard Part 10, Lifting and Digging Equipment may or may not apply. This type of crane is commonly used for delivering and unloading of materials on a construction site.

A knuckle boom (or articulated) crane looks like a standard crane, but the boom bends in the middle – at the “knuckle,” like a finger. It folds down to a compact size, but also extends a long way, giving it many advantages over a stiff-boom or telescopic crane such as an increased payload, a lower profile, a long reach, increased control and versatility.

Articulating knuckle-boom truck cranes are exempt from the requirements of Part 10 (including the requirement for a certified crane operator) when used under the following conditions and criteria:

1. When delivering any type of materials to a jobsite and the materials are placed on the ground without arranging them in a sequence for hoisting purposes.

2. When transferring materials onto a structure only if all of the following conditions are met:

- ✓ The equipment is using a fork or cradle at the end of the boom.
- ✓ The materials are sheet goods or packaged materials including, but not limited to, sheets of sheet rock, sheets of plywood, bags of cement, sheets or packages of roofing shingles, and rolls of roofing felt.
- ✓ The equipment is equipped with a properly functioning automatic overload prevention device.

## MIO-SHA and Walsh Construction Company Sign Partnership

By *Brian Gronda, Safety Supervisor*

On November 14, 2012 MIO-SHA signed its 18<sup>th</sup> construction partnership. This five-year renovation project is located at the Ann Arbor Waste Water Treatment Plant with Walsh Construction Company, Partnering Employers, Michigan Building & Construction Trades Council, Partnering Unions, and Supporting Partners including the City of Ann Arbor. The goals for this partnership are zero injuries, zero incidents, zero near misses, and zero tolerance of unsafe acts or conditions. The project message is: **“No One Gets Hurt - Strive for Excellence!”**

### SPRINKLER FITTER – CAVE IN

In October 2012, a 47 year old sprinkler fitter was in the process of installing and securing a 20,000 gallon tank that was being installed in an 11 foot deep excavation. The excavation was not properly sloped, shored or supported. The victim was next to the tank when the excavation collapsed causing it to shift. The victim was crushed between the side of the excavation and the tank.

MIO-SHA Violations:

- Part 1; *General Rules*
  - Rule 408.40114(2)(d) – Accident program was deficient in regards to excavation type work.
- Part 9; *Excavation, Trenching, and Shoring*
  - Rule 408.40932(5) – No ongoing inspection of excavation prior to employees entering.
  - Rule 408.40941(1) – Excavation not sloped or shored properly.

### CASE SUMMARIES

#### CARPENTER FOREMAN – STRUCK BY

In September 2012, a 41 year old carpenter foreman was struck and killed inside a temporary work zone on a bridge rehabilitation project. The foreman was moving a 36 foot section of a guardrail from a storage area onto the bridge by himself. One end of the guardrail crossed over the concrete road barrier that separated the work area from active traffic and was struck by a passing bus. The impact propelled the employee into the outrigger of a mobile crane where he struck his head.

MIO-SHA Violations:

- No citations were issued
  - Recommendations were issued in regards to working around traffic.

## Preventing Injuries – Tree Trimming Operations Fatalities

During 2012, five of the seventeen MIOSHA General Industry program-related workplace fatalities involved workers in the tree trimming and removal industry.

To help prevent injuries and deaths, employers should take steps to protect workers and train their employees regarding the hazards of tree trimming and removal; measures to prevent injury; and the requirements of Part 53, Tree Trimming and Removal. The standard, addresses minimum safety expectations for the industry including:

- Train employees on the requirements of the standard, the job hazards and safeguards before starting an assigned job. A job briefing must be conducted before starting a job with unusual hazards.

- Provide and ensure employees use eye and head protection, a safety belt, and a safety strap as required by MIOSHA General Industry Safety Standard Part 33, Personal Protective Equipment

- Ensure that employees wear and attach a safety strap when aloft in the bucket of an aerial device.

- Maintain minimum safe working distances from energized lines, as provided in the stan-

dard, for both the tree worker and qualified line clearance tree trimmers.

- Use proper undercut and back cut techniques to ensure there is sufficient hinge wood to guide the tree in the desired direction and to hold the tree to the stump during most of the fall.

- Inspect ropes before each daily use.

- Prohibit employees on the ground from standing or working directly under the work area.

- Use and maintain an aerial lift following MIOSHA General Industry Safety Standard, Part 58, Vehicle Mounted and Rotating Work Platforms.

In addition to the safety concerns discussed above, noise exposure is a health concern in the tree trimming and removal industry. MIOSHA Occupational Health Standard Part 380, Occupational Noise Exposure for General Industry requires engineering and administrative controls are used to the extent feasible to reduce exposures below the permissible exposure limit. Part 380 also requires employers to institute a hearing conservation program when employees are exposed to high levels of noise on the job.

## Fatal Accident Investigation

On June 22, 2012, an employee was limbing a tree in preparation of felling it. The employee climbed the tree using spurs and an appropriate saddle, tying off to a branch approximately 35-feet above ground. The employee positioned himself between the branch he was tied off to and the one being cut. Ropes were improperly secured to the branch and to the rear bumper of a car with the car's operator instructed to keep tension on the rope. As the cut was finished, the branch rolled toward the employee and fell into him causing fatal injuries.

As a result of the accident investigation, the company received five serious citations. The serious violations of Part 53, *Tree Trimming and Removal* include:

- An employer shall provide training to each new employee regarding the requirements of Part 53, the job hazards and safeguards before starting his assigned job. A job briefing shall be conducted before any tree job involving unusual hazards is begun, Rule 5311(a)

- When cabling, the limbs or branches to be connected shall be brought to position by a block and tackle, hand winch or come-along, Rule 5335(a)

- Where the fall of a limb or tree would create a hazard for an employee, pedestrian or vehicular traffic, a means such as, but not limited to, a barrier or traffic control director shall be used to prevent injury, Rule 5315.

## CASE SUMMARIES

### PRODUCTION SUPERVISOR – CRUSHED

In June, 2012, a 46-year-old supervisor went to help an employee on an expansion molding machine. The supervisor tried to remove the parts from the expansion molding machine with the power on and the safety guard defeated. The expansion molding machine cycled while the supervisor was inside the confines of the mold. The supervisor was fatally injured. The company was cited for the following MIOSHA violation:

- Part 62, *Plastic Molding*, Rule 6235(5) - Safety gates missing and safety interlock of gate taped up in a non-functioning position so machine would cycle with gate open.

### TIRE SERVICE TECHNICIAN – STRUCK BY

In July 2012, a 27-year-old employee was chang-

ing a tire on a piece of farm equipment. The employee did not put the tire in a cage or on the vehicle while filling the tire with air. The tire exploded striking the employee and fatally injuring him.

MIOSHA violations:

- Part 72, *Automotive Service Operations*

- Rule 7235(5) - no in-line valve with a gage or a pressure regulator preset to the desired pressure available.

- Rule 7236(5) - Tire was inflated while not mounted on a vehicle or contained in a safety cage/restraining device.

- Rule 7237(8) - Employee not out of the path of trajectory.

- Part 11, *Recording and Reporting of Occupational Injuries and Illnesses*, Rule 1139(1) - Employer did not report a workplace fatality within 8 hours.

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## MIOSHA Disaster Response Team and Emergency Response Preparedness

By: Gerry Dike, Disaster Response Administrator

Did you know that MIOSHA staff provided technical assistance and support to emergency response workers to the 9/11 terrorist attacks, helped respond to Hurricane Katrina or even helped during the 2010 Enbridge Oil Pipe Rupture in Marshall, MI?

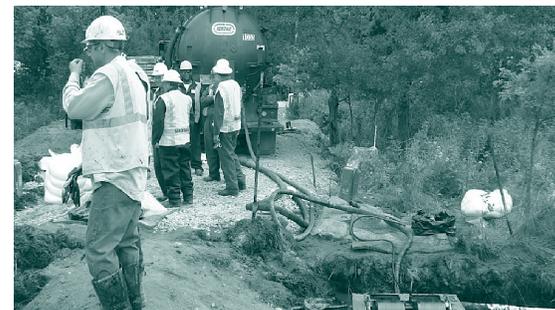
The MIOSHA's Disaster Response Team (DRT) was formally established in 2004 to ensure that mutual roles, responsibilities, and resources are coordinated between federal OSHA and MIOSHA during a "nationally significant incident," as defined in the National Response Plan under the Homeland Security Act of 2002.

MIOSHA DRT has been working in cooperation with other emergency response/emergency management entities to ensure adequate readiness and preparedness.

If there is an emergency/disaster incident in the State of Michigan, declared by the Governor, the MIOSHA DRT will assist in efforts to ensure the safety and health of emergency response workers at the scene, following activation by the Director/Deputy Director of MIOSHA and the Emergency Management Coordinator of Michigan Department of Licensing and Regulatory Affairs (LARA). Such incidents would include, but are not limited to, fire incidents, hazardous materials incidents, as well as chemical, biological, radiological, nuclear, or explosive incidents.

The primary role of MIOSHA DRT will be to provide technical assistance and support on worker safety and health issues. This includes hazard analysis and risk assessment and coordination with the Site Safety Officer.

The MIOSHA DRT is comprised of twenty MIOSHA staff with extensive expertise and experience in worker safety and health protection, MIOSHA regulatory requirements, industry safety and health standards, and workplace safety and health best practices. The MIOSHA DRT strongly encourages all emergency response entities to always stay foreseeably ready and prepared with respect to worker safety and health during emergency response activities. MIOSHA is available to answer questions related to occupational safety and health, and can be contacted through the contact information provided in MIOSHA website at [www.michigan.gov/miosha](http://www.michigan.gov/miosha).



MIOSHA's Disaster Response Team In Action

Nella Davis-Ray, Director  
 Consultation Education &  
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## MVPP Best Practice: Management Commitment

By: Doug Kimmel, MVPP Program Specialist

The Huntsman Corporation site in Auburn Hills, Michigan first received MVPP Star approval on February 27, 2004. The site has since been recertified twice for participation in the MVPP. The Auburn Hills facility is a polyurethane product development operation with approximately 75 employees and 11 machines that duplicate third party processes. One of the strengths identified at the site is management's commitment to the safety and health of their employees.

Huntsman has a vibrant health and safety program which has been in place for many years. These include established programs in emergency response, behavior based safety, self-audit, and site inspection programs, to name a few. Site management is an active participant in the daily operations of these and other health and safety programs. There are the usual activities for site management, such as presenting the safety and health performance and near miss incidents at monthly site safety meetings along with business results. On top of this, site management leads by example, as they actively participate in these activities. It is not unusual to see a member of the team conduct a behavior based observation, participate in

monthly safety committee meetings, or work with the local emergency response team to develop and implement an emergency response scenario.

For Huntsman, it all starts with accountability. As part of each associate's performance responsibilities, there is an expectation to proactively participate in any of the site Environmental, Health, and Safety (EHS) programs during the calendar year. The participation is monitored through meetings several times per year with the associate and their immediate supervisor to ensure participation has occurred or will take place during the year. Associates are expected to attend all site safety meetings (live or by video) and full completion in required training activities in addition to proactively participating in other EHS activities. Non-participation could result in that associate potentially receiving a less than favorable review of their overall work performance.

Many of these programs require time and money to participate, and the management team will provide the resources necessary to implement the site EHS goals. Associates are sent to offsite behavior based safety meetings to enhance their skills and they are given the time required to complete an EHS activity. This includes time to conduct a site inspection, an EHS audit, planning and implementing a wellness day, participation in onsite and offsite EHS training programs, and participation in environmental initiatives such as the Auburn Hills Keep It Clean program.

The bottom line is this: the management team 'walks the talk' by supporting the site EHS programs (financially and ensuring time is allotted for these activities), visibly participating in these programs, and holding associates accountable for the participation in these EHS activities. These are practices most companies should adopt.



Huntsman's MVPP ceremony in 2004

## MIOSHA CET Division Services

To learn more about the free services offered by the MIOSHA CET Division:

- Call the Lansing office at 517.322.1809 or 800.866.4674.
- Submit a request for services electronically at [www.michigan.gov/cetrca](http://www.michigan.gov/cetrca).
- Visit the CET Division website at [www.michigan.gov/cet](http://www.michigan.gov/cet).

## MIOSHA Awards

### Employer Honor Roll

Six companies received workplace safety and health awards:

- 2/14/13 – Herman Miller's Midwest Distribution Center, Holland – MVPP Star Award
- 2/11/13 – United Water, Inc.'s Wixom Waste Water Treatment – MVPP Star Award
- 2/8/13 – Yazaki's Circuit Controls Corporation, Petoskey – CET Bronze Award
- 2/1/13 – Ambassador Steel Fabrication, LLC, Comstock Park – SHARP award
- 12/20/12 – Occidental Chemical Corporation, Ludington – MVPP Star Award
- 10/10/12 – Berkley Screw Machine Products, Inc., Rochester Hills – CET Gold Award

## MIOSHA and the Health Care Association of Michigan Form Alliance

On November 15, 2012, MIOSHA and the Health Care Association of Michigan (HCAM) signed a formal alliance to protect the safety and health of Michigan's long-term care workers.

The alliance provides a working relationship between MIOSHA, HCAM and the Michigan Center for Assisted Living (MCAL), a division of HCAM. The alliance will promote dialogue, develop resources, promote access to training, and share information with workers providing care and services to those in long-term care.

The key goals of this alliance include:

- Reduce injuries and illnesses among Michigan skilled nursing centers and assisted living facilities.
- Create and develop training programs specifically for the long-term care provider community.
- Work with MIOSHA to establish industry best practices and long-term care facility-related safety and health systems.
- Develop a collaborative relationship between MIOSHA and long-term care facilities in Michigan to provide a safe work environment.



MIOSHA-HCAM 2012 Alliance Signing

## MIOSHA and Operating Engineers Sign Alliance

On November 2, 2012, the International Union of Operating Engineers Local 324 Journeyman & Apprentice Training Fund, Inc. (OE JATF) and MIOSHA signed a formal alliance to improve the safety and productivity of Michigan workers that are affected by changes in the crane regulation.

The Alliance formalizes a working relationship between OE JATF and MIOSHA to educate the construction industry on the newest Crane and Derrick Standard. Workers will receive the same interpretation of these standards in order to create a safer work environment. The "Target Audience" for this Alliance is 16,000 apprentices and journeymen; along with project owners, signatory contractors, construction management, site supervision, associations and their workers that perform work with Operating Engineers.

The purpose of this Alliance is to protect the safety and health of Michigan Operating Engineers, as well as work with employers and management to improve safety in the workplace. The key goals of this Alliance include:

- Produce safer, better trained Operating Engineers.
- Increased awareness of the MIOSHA Part 10 Lifting and Digging Regulation for project owners, project managers, site supervision, signatory contractors and their workers.
- Increased involvement and cooperation between MIOSHA and OE JATF.



MIOSHA-Operating Engineers 2012 Alliance Signing

Dawn C. M. Jack, Director  
 Appeals Division  
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## Discrimination Appeal Ruling – Reporting Injuries & Disincentive Programs

By: Dawn C. M. Jack, Director

In January 2013, an Administrative Law Judge (ALJ) ruled in a discrimination case against AT&T Services Inc. (AT&T). The case involved the question of whether AT&T violated Section 65(1) of the MIOASH Act (the Act) in its application of policies and procedures to discipline an employee following his report of a work-related injury.

An AT&T technician was injured when he slipped and fell on slick, snow-covered ground. The technician promptly notified the company of his fall and sought medical treatment. The company later investigated the accident and imposed a one day suspension and a disciplinary notice to remain in the employee's file for 5 years. The technician filed a complaint with the MIOASHA Employee Discrimination Section alleging the discipline was in retaliation for his reporting of the injury. MIOASHA considers an employee's report of a work-related injury as activity protected from discrimination under the Act.

At the time, the Michigan-based section of AT&T maintained a Slips, Trips, and Falls Prevention training program stating "all falls are preventable." The company also had a discipline policy that issued progressive discipline for accidents found to be preventable. In this instance, the technician's manager determined that the accident was preventable because the technician was not wearing the optional ice spike equipment at the time of the fall and had not adjusted his gait.

Following an investigation, MIOASHA determined that the discipline was a part of a "disincentive program" which disproportionately disciplined employees who reported injuries needing medical attention. A disincentive program includes policies or practices of an employer which discourage employees from freely and accurately reporting work-related injuries and illnesses.

AT&T was instructed by MIOASHA to repay the technician for the lost wages; remove all records of the discipline from the technician's employment file; and post a MIOASHA Discrimination Poster. AT&T appealed.

The ALJ ruled in favor of MIOASHA and the technician.

AT&T did not file an appeal with the Circuit Court.

## Variations

Variations from MIOASHA standards must be made available to the public in accordance with Part 12, Variations (R408.22201 to 408.22251). MIOASHA variations are published on the MIOASHA News website: [www.michigan.gov/mioshavariations](http://www.michigan.gov/mioshavariations)

Ron Ray, Director  
 Management & Technical  
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## Hazard Communication Standards Updated

In 2012, federal OSHA amended the Hazard Communication Standard (29 CFR 1910.1200). Effective December 21, 2012, Michigan adopted the amended federal standard by reference.

The amendments modify the Hazard Communication Standard (HCS) to closely align with the United Nations' Globally Harmonized System of Classification and Labeling of Chemicals (GHS). OSHA has concluded this change will enhance the effectiveness of the HCS in ensuring that employees are apprised of the chemical hazards to which they may be exposed, and in reducing the incidence of chemical-related occupational illnesses and injuries.

The modifications to the standard include:

- Revised criteria for classification of chemical hazards.
- Revised labeling provisions that include requirements for use of standardized signal words, pictograms, hazard statements, and precautionary statements.
- A specified format for safety data sheets (SDSs).
- Related revisions to definitions of terms used in the standard.
- Requirements for employee training on labels (SDSs).

MIOASHA is also modifying provisions of other standards, including standards for flammable and combustible liquids, process safety management, and most substance-specific health standards, to ensure consistency with the modified HCS requirements.

Jennifer Fields, Manager  
 Wage & Hour Program  
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## What Are Fringe Benefits?

By: Georgia Harris, Program Evaluation Manager

MIOASHA's Wage and Hour Division enforces Michigan's Payment of Wages & Fringe Benefits Act, Act 390 of 1978 (Act 390).

Under Act 390 section 1 (e) five things are defined as fringe benefits. "Fringe benefits mean compensation due an employee pursuant to a written contract or written policy for holiday, time off for sickness or injury, time off for personal reasons or vacation, bonuses, authorized expenses incurred during the course of employment..."

The employer is not required to have a written fringe benefits policy or contract under Act 390. If the employer does choose to have a written fringe benefit policy or contract, they should include under what circumstances the fringe benefits are earned and payable. For example, if an employee quits will they receive payment for any unused accrued vacation or sick time? Does the written policy address what holidays are paid?

Written bonus policies should also outline the terms and conditions that bonuses will be paid. Written expense reimbursement policies should also explain what expenses the employer will reimburse and what information is needed to document the expenses. The employers' written policy or contract is what the Wage and Hour Division would enforce.

After a claim for expenses is submitted, it is reviewed by a Wage and Hour Investigator to be sure it is complete and is for fringe benefits defined under Act 390. Both parties are asked for copies of any written policy or contract regarding the fringe benefit. The Division makes a determination if the fringe benefits are due based on the written policy. If there is no written policy

regarding the fringe benefits, the Division cannot enforce payment of the fringe benefit.

For more information on Act 390 you may visit our website at [www.michigan.gov/wagehour](http://www.michigan.gov/wagehour) or call the Wage and Hour Division at 517-322-1825, 313-456-4906 or 906-482-3602.

## MIOASHA Celebrates 35 Years of Wage & Fringe Benefit Protection

This year marks the 35<sup>th</sup> anniversary of the enactment of Act 390. To celebrate this anniversary, MIOASHA's Wage & Hour Division has established a toll free telephone number to improve customer service and provide information about employment standards administered by the Wage & Hour Division. The new toll free number is **1-855-4MI-WAGE** (1-855-464-9243).

Each year the Division receives over 4,000 Act 390 complaints and aims to informally resolve them within 90 days. Last year over \$2.3 million in unpaid wages and fringe benefits were returned to Michigan workers as a result of Division investigations.

In honor of the 35<sup>th</sup> anniversary, the Division has put together its top five tips for observing the Payment of Wages & Fringe Benefits Act:

1. Set up regular, recurring scheduled pay periods and paydays.
2. Pay wages on or before payday.
3. Only make deductions from wages when allowed by law, collective bargaining agreement, or the written authorization of the employee.
4. Pay fringe benefits earned according to a written contract or policy.
5. Maintain a personnel file, time records and payroll records for at least three years.

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## MIOSHA TRAINING INSTITUTE (MTI)

### MIOSHA Training Institute (MTI) Construction Highlights

*By: Sheila Ide, CET Supervisor*

The catastrophic and dramatic nature of crane accidents often results in property damage, serious injury and even death. In response to those hazards, OSHA revamped and issued a more comprehensive standard for those using cranes in the construction industry. MIOSHA followed up with its own standard.

Soon after final passage of the standard, the MTI piloted the construction program **"Part 10-Lifting and Digging Equipment: Construction Cranes and Rigging."** The topic had already generated a tremendous amount of interest as evidenced by frequent questions from the public for interpretations of the proposed standard.

**Part 10** changed dramatically with rules covering pre-erection inspections; use of synthetic slings during assembly/disassembly work; ground condition assessments; crane operator certification; rigger and signal person qualification; and requiring specific procedures for working near power lines.

The MTI course addresses each rule in the standard and includes several exercises that reinforce the learning objectives as students work through set-up and training scenarios. Several **Part 10** MTI courses have already been scheduled and appear on the MIOSHA training calendar at [www.mi.gov/mioshatraining](http://www.mi.gov/mioshatraining).

**Construction Certificates.** Those seeking Level One and Two certificates in construction will soon have some new options. Beginning in March, 2013, along with three required classes; "MIOSHA Construction 10 Hour Course," "Health Hazards in Construction," and "MIOSHA Construction – Part 45 Fall Protection," students may take any other four construction track courses for a total of seven to obtain a Level One certificate. The Level Two construction track certificate will consist of any eight classes from the construction track not previously taken. By allowing students to pick any course to fulfill the certificate requirements, they will be able to customize their learning experience to courses of most interest or use in their construction specialty.



*Safety graduates*

MTI website: [www.michigan.gov/mti](http://www.michigan.gov/mti)



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**The Mission of the MIOSHA Program is:  
To Protect Employee Safety, Health  
and Worker Rights.**

The MIOSHA News is a publication of the MIOSHA program. Its purpose is to educate Michigan employers and employees about workplace safety and health and we encourage reprinting.

The Department of Licensing and Regulatory Affairs (LARA) is an equal opportunity employer/program. Auxiliary aids, services and other reasonable accommodations are available upon request.

**Website: [www.michigan.gov/lara](http://www.michigan.gov/lara)**  
(22,000 copies printed at \$4,769 or \$0.22 per copy.)