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WHAT'S HAPPENING

20th and 21st Michigan Worker Deaths of 2014

The 20th and 21st Michigan worker deaths of 2014 occurred on July 21, and August 25, 2014. Employers and employees are urged to use extreme care and safety diligence in all work activities.

Summary of incident: On July 21, 2014, a 46 year old farm worker, the operator of the bull dozer, was standing on top of the front blade with another employee standing on the fender. The two were attempting to hang tarps on the side of a barn when the dozer moved ahead causing the deceased to lose his balance and fall to the ground where he was run over.

Summary of incident: On August 25, 2014, at approximately 10 a.m., a 60 year old shot blast operator was operating a shot blast machine with fabricated metal guards placed around the front of the machine. The guards were there because they were running a part in the shot blaster that was so large the doors could not be closed. These guards weighed approximately 632 pounds each and there were a total of two guards. The operator had climbed underneath the guards and bumped them causing the guards to fall onto the employee crushing him.

There were 27 MIOSHA-related deaths in 2013 & 2012. 2009 saw the lowest number with 24.

If you need help or assistance in ensuring your workplace is safe, MIOSHA is here with resources to help. The Consultation Education and Training (CET) Division provides workplace safety and health training and consultations to employers and employees throughout Michigan free of charge. Contact CET today at (800) 866-4674 or submit a request online at www.michigan.gov/cetrca.

Every life is precious. Our mutual goal must be that every employee goes home at the end of their shift every day!

Radiation Safety Meets with MSU to Discuss Radiation Shielding Plan for FRIB

On August 26, 2014, staff from the Radiation Safety Section met with staff from Michigan State University (MSU) to discuss the process of completing the review of the radiation shielding plan for the new Facility for Rare Isotope Beams (FRIB) currently under construction at Michigan State University.

At the end of the meeting MSU submitted plans and specifications for the first three sections of the beam line (called the Front-End Vertical Beam Line). The submission included ~ 800 pages of drawings and calculations showing the university's estimates for the amount of shielding needed to protect workers and members of the public from the radiation produced by the accelerator. This

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information will be reviewed by staff in the RSS to ensure that proposed shielding will be adequate to keep doses and dose rates to workers and members of the public below regulatory limits. After this initial submission is reviewed MSU will submit the remainder of the calculations for the back end of the beam line which includes the experimental vaults. The plan is to complete the plan review of the facility by the end of 2015. The facility plans to be operational by 2020.

Reporting of Injuries is a Form of Protected Activity

There is a gray area of “protected activity” as it relates to reporting of injuries. Under the Michigan Occupational Safety and Health Act, an employer cannot discriminate (e.g., discipline, fire) an employee for engaging in “protected activity.” An employer cannot discipline an employee simply for reporting an injury (in an attempt to discourage reporting), although it can discipline an employee for violating a safety rule/procedure that contributed to said injury. Therefore, when controversy arises, the question becomes – Is the employer disciplining the employee for reporting the injury or for violating the workplace safety rule?

In late 2010, the MIOSHA Employee Discrimination Section (EDS) began to receive discrimination complaints against a specific utility company alleging that it was disciplining employees for reporting injuries. If an employee reported an incident but did not seek medical attention, the matter was typically noted as a “Wait and See” incident and there was no investigation by the company or discipline. If the incident required medical attention, the employer investigated to determine if it was “preventable/avoidable”, and most often the employer deemed it to be the employee’s fault, even when the cause was largely out of the employees’ control. EDS received two such complaints dealing with allegations of retaliation for reporting of injuries the last two months of 2010. One discrimination complaint was settled, and the other one was withdrawn by the employee.

EDS has continued to receive complaints dealing with the same allegations against this utility company. In many of the complaints, the EDS investigation has resulted in the issuance of merit determinations sustaining the complainants’ allegations and ordering the employee be made whole.

In March 2012, Federal OSHA authored a memo, www.osha.gov/as/opa/whistleblowermemo.html to assist investigators with evaluating such cases. In summary, it states that an employer cannot use “vague” rules to blame an employee for an injury. EDS used these guidelines as a tool during the investigation process. The resulting ALJ decisions started the ball rolling with this company. After MIOSHA received merit decisions against this utility company, federal OSHA’s solicitor’s office looked closely at those decisions as they began to proceed with their findings in several cases in Region V against the same employer. As a result of these decisions, the utility company appears to have begun to change its thought process. While we are still receiving complaints, most of them are resulting in settlements very early on in the investigation process. In addition, union officials have advised that almost 100% of the injuries reported, and subsequent investigations, are not resulting in discipline being issued. As a result, employees feel more protected and freer to report injuries.

BNA Article on OSHA Evaluation of State Plans

On August 19th, BNA published an [article](#) indicating that many state plan programs are not meeting their inspection goals or issue too few citations. Michigan stands out in this article in a very positive way!

Michigan was one of only four states to meet the inspection targets we set for ourselves. Michigan was also one of only four states to exceed the goal for both safety and health inspections. In addition, MIOSHA had one of the highest percentages of inspections occurring in high hazard industries, which means our inspection targeting is effective.

The article also shows that Michigan has the second lowest average serious penalty in the nation at \$532. The highest is California at \$6,264. Michigan’s lower average penalty is reflective of the long held program philosophy to focus on presence in the workplace through “routine” inspections to proactively identify/eliminate hazards versus a deterrent-effect approach of issuing large penalties or focusing on reactive inspections after incident occur.

MIOSHA Mailing

Site-specific targeting (SST) is part of MIOSHA’s programmed inspection plan for non-construction workplaces. It is MIOSHA’s practice to inform sites targeted for a programmed inspection. In August 2014, MIOSHA mailed 3,240 SST letters to general industry employers throughout Michigan.

The letter informs the recipient that they may receive an enforcement investigation. These sites were randomly selected establishments in industries identified in the strategic plan as high-hazard as well as randomly selected establishments in a wide range of other industrial classifications. The letter encourages the recipient to request assistance through MIOSHA's Consultation Education and Training (CET) program. [SST Letter](#)

For more information on how establishments are selected for programmed inspection, please review [General Industry Inspection Priority System for Scheduled Programmed Inspections](#).

New Overnight Mail Address for MIOSHA

On June 16th, the Department of Licensing and Regulatory Affairs mailroom was relocated to downtown Lansing. Because of this change, **overnight** packages must be addressed as follows:
LARA – MIOSHA
(Division or Program Name)
525 W. Allegan St.
Lansing, MI 48909

Fact Sheet Added to the MIOSHA Website

A new occupational health fact sheet has recently been added to the MIOSHA website: [Agricultural Industry Confined Space Hazards](#).

AGENCY INSTRUCTIONS/MEMOS ISSUED

August 7, 2014 - MIOSHA-COM-05-2R3, [Failure to Submit Notification-of-Abatement Citation Policy](#)

MEDIA

August 11, 2014 – [MIOSHA Invites Employers to “Take a Stand” for Safety and Health](#)

August 25, 2014 – [New Minimum Wage for Michigan Employees](#)

All of the MIOSHA Press Releases can be viewed from our [website](#).

VARIANCES

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

QUICK LINKS

[Agency/Division Instructions/Memorandums](#)
[Consultation Education & Training \(CET\) Division](#)
[CET Request for Consultative Assistance Services](#)
[Construction Safety & Health Division \(CSHD\)](#)
[DVD/Video Library Service](#)
[Employee Safety, Health and Discrimination Complaint Forms](#)
[General Industry Safety & Health Division \(GISHD\)](#)
[Laboratory & Equipment Services](#)
[MIOSHA FOIA Request Form](#)
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