

ADOSH ADVOCATE



Improving Workplace Safety and Health

<http://www.ica.state.az.us>

Darin Perkins, Director

Fall 2001

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Contributing Staff: Darin Perkins, Ernie Miller, Mark Norton, and Sue Oliva

Kenneth P. Gaut: Design and Layout
ken.gaut@osha.gov

Comments and suggestions are welcome

Arizona Division of Occupational Safety and Health
800 West Washington Street
Phoenix, AZ 85007
(602) 542-5795

2675 East Broadway Road
Tucson, AZ 85716
(520) 628-5478

Recent Events

There has been a lot of talk recently regarding the working relationship between the Arizona Division of Occupational Safety and Health and the Attorney General's office. These discussions center on ADOSH's policy of notifying the AG's office of all occupational fatalities, as well as those cases involving willful violations that result in serious injury or illness.

For the record, the Arizona statutes have always allowed for possible criminal prosecution for certain violations of the Act. A.R.S. 23-418(E) states that a person who knowingly violates a standard or provision of the Act is guilty of a Class 6

felony if that violation causes the death of an employee. In the past, ADOSH has referred certain cases to the Attorney General and/or county attorney offices. These cases have typically been the most egregious, usually fatalities

where the employer and/or his representative had knowledge of the condition and requirements. Despite these referrals, very few of the cases received the attention that ADOSH felt they deserved.

As a result of recent discussions between the two agencies, ADOSH is now notifying the AG's office of all occupational fatalities, as well as those cases involving willful violations that result in serious injury or illness. The AG's office has agreed to review each notification to determine whether or not the case warrants further investigation on their part and to aggressively pursue those cases

where criminal conduct is evident.

What does all this mean for employers? For most employers, ADOSH believes there should be no cause for concern. First, there were approximately 45 cases last year involving either an occupational fatality or willful violation(s) resulting in serious injury or illness. This represents approximately five percent of the total number of inspections conducted by ADOSH. Of those 45 cases, the vast majority would not involve criminal conduct and hence would not warrant investigation by the AG's office.



Second, many employers are already doing the right thing. They are training their employees, implementing effective safety and health programs and enforcing those programs through an effective disciplinary program. They are providing the necessary safety equipment and they are actively involved in the safety and health of their employees, making this their primary concern.

There are however, some employers who have not and will not provide a safe workplace for their employees, no matter the benefit for doing so, nor the possible consequences of not doing so. These are the employers, managers, competent persons and foremen that ought to be concerned. These are the companies and individuals toward whom the AG's office will likely focus their efforts. Individuals who are in an authoritative or supervising position

Fatal Mistakes

over other employees cannot afford to turn the other way or overlook potential hazards. The stakes are high. A potential citation from ADOSH is small in comparison to the possibility of criminal prosecution and a subsequent prison sentence.

Will this change have an effect on ADOSH investigations? Yes and no. Yes in the sense that there will likely be situations where employees and/or management are less inclined to speak with a compliance officer if they believe there is a possibility for a concurrent criminal investigation. ADOSH recognizes this possibility and understands that both employers and employees have certain rights during an investigation and we intend to respect those rights. However, we too have a responsibility to conduct an investigation to determine the cause of an accident and whether any standards were violated. We will use the tools available to us to ensure the timely completion of those investigations.

On the other hand, I do not foresee any changes to the manner in which ADOSH handles its investigations. The purpose of an ADOSH investigation is not to determine whether or not there was any criminal conduct. This is the responsibility of the AG's office. ADOSH compliance officers will focus on their responsibilities, which I mentioned above; determining the cause of an accident and whether any standards were violated.

What can employers do to avoid being the focus of an investigation by the AG's office? Do the right thing. Do right by your employees. As an employer or supervisor your primary concern should be to ensure that each employee goes home safe at the end of the day. Every employer and supervisor has a basic, moral obligation to do everything necessary to ensure this happens. The legal obligation is secondary. If we care about our employees and act accordingly, compliance with the standards will be the natural result. *Darin Perkins*

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Our construction sites around the valley frequently have water tanks on elevated stands providing the water for the water truck (or "water pull") to use to fill up. These stands provide some passing interest to people passing by, because they usually have some form of corporate advertising painted on them and they really ignite some curiosity about "How'd they get that up there?"

When these tanks are empty and ready to raise or lower they weigh about 12,000 pounds. The "elephant spout" that delivers the water to the water pull below, is usually a 10" diameter pipe and elbow. The tanks are raised and lowered by "hooking" a specified run of cable with a powered machine from the site, such as a dozer, a blade or a truck. The powered vehicle carefully backs up, providing lifting energy for the empty tank. Here's the key piece of the puzzle. Every tank has full instructions on an information plate, or decal, posted on the tank. The instructions always say if you don't understand, or have any questions, call the manufacturer for help. The manufacturer realizes that this equipment is not raised and lowered every day. It may be months before it is raised or lowered. Sometimes memories get a little rusty.

A construction site where a new elementary school was being built had a water tank on the front corner of the grounds. The crew had finished using it and hooked the blade up to the cable to raise the tank so the locking pins could be removed. They got the wrong run of cable, but were able to raise the tank a few inches as required and removed the pins. When they started to lower the tank, the cable jammed and the tank

skewed. The person who had connected the blade to the cable and removed the locking pins, and claimed to have done this a "million times", walked under the elephant spout to go to the cable run pulleys to see what was wrong. As he walked under the spout, the cable broke where it had jammed in a sheave and the 12,000 pound tank fell about 10'. The spout struck the employee on the hard hat. He received severe closed head injuries, and spinal trauma. He was hospitalized as a quadriplegic. Two months later he was found dead in his hospital bed as a result of injury induced arrhythmia, complicating spinal cord trauma. His death was directly caused by the construction site injury.

It was noted that the 10" diameter elephant spout that struck the victim came to rest about 4' 6" from the ground. Hitting the hard hat did not stop the spout at all! The lesson learned from this incident is simple; read the operating instructions, even if you "feel comfortable" operating a piece of infrequently operated equipment. You might just save a life. *Ernie Miller*

What am I missing?

Throughout my years with ADOSH, as both a compliance and consultation representative, I have encountered companies who have gone out of their way to establish and implement a comprehensive safety and health program yet their injury and illness rates show no significant drop. I have dealt with companies that continuously have the same types of accidents and learn nothing from them. Safety policies are revised, training sessions are held, the message is passed and still the problems persist.

What is it these companies are missing? In one word, discipline. This is probably one of the most under used tools in an employer's arsenal to fight accidents and injuries in the workplace.

A good safety and health program must have the following elements to be effective:

- Written safety and health policies;
- Communication of those policies;
- Training on the policies and how they will be implemented;
- Proper personal protective equipment;
- Discipline.

Many companies overlook the disciplinary portion of the program. Doing so increases the risk of failure and when the program fails the employer has difficulty figuring out why. When you take a look at the company in-depth the answer is easy to spot. Next time you hear an employer or foreman complaining of a safety violation by an employee, ask him or her what they did to the employee as a result. More often than not you will hear, "what could I do" or "I told him about it." This will not stop the pattern. Employees may not be concerned about following the rules because they know that there will be no consequences for breaking them. I have actually had employees tell me during inspections, "They really don't want us to do that, but they don't say anything so we don't worry about it."

The argument I get from employers most of the time is that they are a small company and they are all friends. How do I discipline my friend? A better question to ask would be "How do I tell my friend's spouse that he/she isn't coming home today?" Another very popular response deals with the increased competition created by the job market. In other words if they are disciplined at one company they will simply leave and go somewhere else. This may be true but could be curtailed if more employers were consistent in how they dealt with the issue of employee discipline.

There must be some sort of disciplinary component to a good safety and health program. One example is a progressive disciplinary action program. Employees know what is expected of them and each time they violate the safety and health policies the disciplinary action is more severe. Maybe the first time it is a verbal warning. The second time, written. The third time might be a written warning with time off. Eventually, if the habits are not corrected termination may result. The key here is to document the fact that they were made aware of both the safety and the disciplinary policies and practices of the company and document what action is taken and when. Remember, a good program must extend to all levels, from the laborer to the foreman and upper management. It does no good to discipline the laborer

and allow the foreman (who allowed the violative condition to exist), to go without discipline. It must be applied evenly and equally. Without the teeth to

enforce the program it is simply that, a program, and it is only as strong as it's weakest link.

Mark Norton

Occupational Fatalities Investigated by ADOSH

April 1, 2001 through June 30, 2001

- The owner of an electrical company was killed by an arc blast while operating an electrical knife switch.
- An employee drowned when the boat he was in with four other employees, capsized. The victim couldn't swim.
- An employee was crushed when the chain being used to lift a septic tank broke, dropping the tank to the ground.
- An employee fell 15 feet through a skylight while performing roofing work.
- An employee was electrocuted when he and another employee stood a 30' long irrigation pipe on end, contacting overhead power lines.
- An employee was killed in the collapse of a 35' high excavation side wall.
- An employee was killed in the collapse of a 20' deep excavation.

Workplace Safety and Health and the Competitive Edge

The marketplace, whether it be local, regional, national, or global is increasingly becoming more competitive. With national economists predicting a recession on the horizon, companies need to be proactive and pursue opportunities that will assist them in achieving and maintaining their competitive edge in the marketplace.

Productivity is a function of people, technology, and management strategies. Safety and health have a direct affect on the first two. With the marketplace becoming more and more competitive, companies must continually and consistently combine the best people and the best technologies with the best management strategies available to them. A safe and healthy workplace is one of the best management strategies, especially in this time of increasing global competitiveness.

The pressure to increase productivity often shows up in ways that are detrimental to the health and safety of workers. In their rush to meet deadlines or quotas, workers may disassemble safe-

guards, stop taking the time to use appropriate personal protective gear, ignore safety rules, neglect equipment maintenance duties, improperly handle or store toxic substances, and take chances that they wouldn't take under normal conditions. A company committed to a good safety and health record is spending less money on expenses

such as worker's compensation premiums, medical claims, product liability litigation, and lost production time.

A strong commitment to safety and health is not just the right thing to do ethically or the smart thing to do legally, it is also the profitable thing to do in terms of competitiveness.

As the marketplace becomes more competitive, so should your commitment to your safety and health program.

Contact your local ADOSH consultation and training department for free safety and industrial hygiene workplace surveys and training services and help increase your company's competitive edge in the marketplace.

Sue Oliva



ADOSH Education and Training Calendar

Registration for each course begins no earlier than 30 days prior to the date of the course. Location address and time of course will be determined at the time of registration. Course information can be viewed on the ICA's web site at www.ica.state.az.us/Adosh/training.htm From this site interested parties may e-mail instructors or obtain additional information. All ADOSH classes are free of charge and are subject to change or cancellation without notice.

Date	Course	Location	Trainer	Phone
October 2	Recordkeeping	Tucson	TBD	520-628-5478
October 2	Electrical Safety	Avondale	Joe Gates	602-542-1641
October 4	Excavation Safety Awareness	Douglas	Sue Oliva	520-320-4229
October 10	Recordkeeping	Verde Valley	TBD	602-542-1641
October 17	Fall Protection	Phoenix	Joe Gates	602-542-1641
October 18	OSHA in the Medical Office	Phoenix	Fernando Mendieta	602-542-1640
October 18	Recordkeeping	Flagstaff	Joe Gates	602-542-1641
October 25	Forklift Train-the-Trainer	Yuma	Joe Gates	602-542-1641
October 25	Hazard Communication	Phoenix	Fernando Mendieta	602-542-1640
October 30	Forklift Train-the-Trainer	Tucson	Sue Oliva	520-320-4229
November 6	Respiratory Protection	Flagstaff	Fernando Mendieta	602-542-1640
November 7	Recordkeeping	Tucson	TBD	520-628-5478
November 8	Safety Management	Show Low	Joe Gates	602-542-1641
November 13	Excavation Safety Awareness	Sierra Vista	Sue Oliva	520-320-4229
November 14	Fall Protection	Yuma	Joe Gates	602-542-1641
November 14	Recordkeeping	Phoenix	TBD	602-542-1769
November 14	Respiratory Protection	Phoenix	Fernando Mendieta	602-542-1640
November 15	Scaffold Safety	Yuma	Joe Gates	602-542-1641
November 15	Respiratory Protection	Tucson	Fernando Mendieta	602-542-1640
November 16	Recordkeeping	Yuma	Joe Gates	602-542-1641
November 20	Respiratory Protection	Yuma	Fernando Mendieta	602-542-1640
November 29	Excavation Safety Awareness	Phoenix	Joe Gates	602-542-1641
November 29	OSHA in the Medical Office	Phoenix	Fernando Mendieta	602-542-1640
December 4	Recordkeeping	Tucson	Mark Norton	520-320-4222
December 6	Excavation Safety Awareness	Tucson	Mark Norton	520-320-4222
December 12	Recordkeeping	Phoenix	TBD	602-542-1769
December 18	Safety Management	Tucson	Mark Norton	520-320-4222

Trainers may also be contacted by e-mail at joe.gates@osha.gov, fernando.mendieta@osha.gov, sue.oliva@osha.gov, and mark.norton@osha.gov

Dates are subject to change

ADOSH
 800 West Washington
 Phoenix, AZ. 85007