

## *Excerpts from JJ Keller's Online Weekly Updates*

### *- ESH News and Alerts -*



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#### **Joint labor, business, government partnership to focus on safety of Georgia electrical workers**

Providing safer workplaces is the goal of a new partnership between the U.S. Labor Department's Occupational Safety and Health Administration (OSHA); Atlanta Electrical Contractors Association (AECA); International Brotherhood of Electrical Workers (IBEW), Local 613; Atlanta Electrical Joint Apprenticeship Training Committee (AEJATC), and the Georgia Tech Research Institute.

"This partnership provides an opportunity for the partners to come together and build on the value of safety and health for unionized electrical workers in the Atlanta area," said Cindy Coe Laseter, OSHA's Atlanta regional administrator.

The partnership is part of Labor Secretary Elaine L. Chao's ongoing efforts to improve worker safety and health through cooperative partnerships," said Gei-Thae Breezley, OSHA's Atlanta-East area director. "OSHA worked extensively with all the parties to form this partnership which covers employers and employees in North and Central Georgia. Breezley added that by working together, the partners can reach more workers and provide them with information they need to eliminate hazardous conditions at their work sites.

#### **Primary belt laws would save 700 lives per year**

Safety belt use laws in only 21 states and the District of Columbia are primary, meaning police may stop vehicles solely for belt law violations. But in most states belt use law enforcement is secondary, so police cannot stop vehicles for this infraction alone (New Hampshire is the only state without any belt use law.)

In a new study the Insurance Institute for Highway Safety (IIHS) found that when states strengthen their laws from secondary enforcement to primary, driver death rates decline by an estimated 7%. "In states with primary laws, safety belt use rates are higher. The result is that crash deaths are reduced," says Institute senior vice president Susan Ferguson. "Where primary laws are in effect, drivers are more likely to buckle up because the perception is that they're going to be pulled over if they don't."

The most recent national observational survey conducted in 2004 by the National Highway Traffic Safety Administration (NHTSA) shows that belt use rates averaged 84% in primary states compared with 73% in secondary states. A number of observational studies have shown that shifting from secondary to primary laws boosts safety belt use, but the Institute's is the first study to evaluate the effect of this shift on traffic deaths. IIHS examined driver fatality data during 1989-2003 in 10 jurisdictions — California, the District of Columbia, Georgia, Indiana, Louisiana, Maryland, Michigan, New Jersey, Oklahoma, and Washington — where secondary laws were amended to primary. Researchers compared these data with data in states where the laws remained secondary.

One indication that the primary laws led to higher belt use comes from rates among fatally injured drivers. In 1989 before any of the laws were changed, belt use rates among fatally injured drivers were similar — about 20% — in both groups of states. By 2003 the rates had risen to 47% in states that switched to primary laws, compared with 36% in the secondary states. The annual rate of passenger vehicle driver deaths per mile of travel declined in both groups of states, but it declined more in the states that changed to primary enforcement. Taking into account the timing of the change in each state and other factors that could have affected crash rates, primary laws were associated with a 7% reduction in death rates.

Ferguson points out that during the study period "many states participated in special 'Click It or Ticket' safety belt enforcement campaigns. The enhanced enforcement began earlier in the primary states so it's important to note that changes in belt use laws along with the increased enforcement led to the decrease in fatalities."

Based on the reduction in driver death rates, it's estimated that 2990 lives have been saved in the study states because of the tougher safety belt laws. "If the 28 states that still have secondary laws were to switch to primary enforcement, about 700 lives would be saved each year. And if legislators in these states had enacted primary laws to begin with, more than 5000 lives could have been saved since 1996," Ferguson says.

## **Company director jailed following roofwork fatality in UK**

A managing director was sentenced to a 16-month custodial sentence following a prosecution brought by the British Crown Prosecution Service (CPS). The case, heard at Manchester Crown Court, followed a police led, joint investigation with the Health and Safety Executive (HSE) into the death of an employee on June 11, 2003. The 27-year old employee and several others had been employed to remove and replace the roof of a warehouse. No safe system of work had been prepared before the work began and no safety precautions were in place at the time of the incident. The employee had never worked on a roof before.

While working on the roof, the victim stepped backwards onto a fragile rooflight on an adjoining warehouse, which gave way. He fell approximately 6.75m landing on the ground floor directly below. He died as a result of his injuries. The managing director of the company pleaded guilty to charges of manslaughter and a breach of Section 2 of the Health and Safety at Work Act 1974 (HSWA). Commenting on the case Pam Waldron, HSE's Head of Construction for Scotland and the North West, said:

"No penalty can make up for the loss of a loved one. However, [the managing director's] sentence properly reflects the seriousness of his failure to ensure that [the employee] was safe and HSE is pleased that the matter has been concluded. There was a fundamental failure to recognize that the roof included fragile roof lights that will not bear a man's weight. Moreover, the equipment to prevent people falling through fragile materials is readily available and relatively cheap. A sensible, straightforward approach to health and safety in managing the risks on this job should have prevented this tragic death."

## **Car crashes linked with extended shifts in NIOSH-funded study**

First-year doctors in training, or medical interns, who work shifts of longer than 24 hours are more than twice as likely to have a car crash leaving the hospital and five times as likely to have a "near miss" incident on the road as medical interns who work shorter shifts, according to a study co-funded by the National Institute for Occupational Safety and Health (NIOSH) that was reported in the January 13 issue of the *New England Journal of Medicine* (NEJM).

The article, "Extended Work Shifts and the Risk of Motor Vehicle Crashes among Interns," is the third in a series of studies on the impact of extended work hours and fatigue on interns conducted by the Divisions of Sleep Medicine at the Brigham and Women's Hospital and the Harvard Medical School in Boston. The first two studies were published in the October 28, 2004, issue of NEJM. All three were co-funded by NIOSH and the Agency for Healthcare Research and Quality in the U.S. Department of Health and Human Services.

Laura K. Barger, Ph.D., Research Associate in Medicine at the Brigham and Women's Hospital and Harvard Medical School, and her colleagues recruited 2,737 interns from medical institutions around the country to fill out detailed monthly surveys recording their work hours, frequency of shifts of more than 24 hours and driving safety records, including car accidents, near-miss incidents in which property damage was narrowly avoided and incidents involving their falling asleep while driving or while stopped in traffic. More than 17,000 surveys were collected between April 2002 and May 2003. Researchers also randomly selected 7 percent of study participants to keep daily work diaries that were verified through direct observation.

The study found that the majority of interns routinely worked more than 30 consecutive hours, and they reported that they were awake 96 percent of their time in the hospital on average. Also, during the 12-month study period, interns reported working an average of 80 hours or more during 46 percent of work weeks and 100 hours or more per week during 11 percent of work weeks.

"This study clearly shows that the impact of overly long work hours and fatigue extend outside the hospital," said Carolyn M. Clancy, M.D., AHRQ's director. "These studies have provided a foundation of evidence for ensuring that work shifts in hospitals are adequate to provide the best training for young physicians without posing a danger to their own health and safety as well as that of their patients and others."

"NIOSH is working closely with diverse partners to address the implications of long working hours and non-traditional work schedules for job-related health and safety," said NIOSH Director John Howard, M.D. "These new findings are a valuable addition to the data needed by researchers to help employers and employees maximize health, safety, and productivity in designing work schedules."

Study participants reported a total of 320 accidents during the 12-month study period, including 133 that resulted in treatment in the emergency room, property damage of more than \$1,000 or the filing of a police report. Slightly more than 40 percent of the 320 crashes occurred on the commute from work. Every extended shift that was scheduled per month increased the monthly rate of accidents on the commute from work by 16 percent and the

monthly rate of any car accident by 9 percent. Interns also were more than twice as likely to fall asleep while driving or more than three times as likely to fall asleep while stopped in traffic in months in which they worked five or more extended shifts.

"Because nearly 70 percent of medical interns who participated in the study commute to work by car, eliminating extended work shifts could prevent a substantial number of accidents," said Dr. Barger.

Senior author Charles A. Czeisler, Ph.D., M.D., who leads the Harvard Work Hours, Health, and Safety Group, the team that conducted all three studies, and who is Baldino Professor of Sleep Medicine and Director of the Division of Sleep Medicine at Harvard Medical School, said, "It is unsafe to get behind the wheel of a car after working for 24 consecutive hours. The health care profession has a duty to protect its young trainees from exposure to the well-known hazard of drowsy driving, which causes over 100,000 motor vehicle crashes on our nation's highways every year."

### **Hewlett-Packard L2035 flat panel monitors recalled**

Philips PC Peripherals, of Colorado Springs, Colorado, recently announced the recall of about 15,000 Hewlett-Packard Company (HP) L2035 Flat Panel Monitors. A ground clip inside the back plastic panel of these monitors can be incorrectly installed, posing a risk of electrical shock to consumers.

Philips has received one report of a consumer receiving an electrical shock from one of these monitors. The consumer was not injured.

The recall involves only the HP L2035 Flat Panel Monitor with serial numbers ranging from CNP352Y001 to CNP423Y1HS. The model number is displayed at the bottom, center of the monitor's bezel, just above the control buttons. The recalled monitors were produced from December 2003 through June 2, 2004.

The monitors were sold at HP's website for business use, and directly to business/corporate accounts. HP and its distributors also resold the monitors to HP's Channel Partners. The recalled monitors were sold by HP from February, 2003 through October, 2004 at retail for about \$900.

Consumers should unplug the monitor and either use a different computer to go to the recall Web site or contact the HP L2035 Recall Helpdesk for instructions on how to determine if their monitor is affected by this recall program. If affected, consumers will receive instructions for getting their monitor tested and repaired or replaced at no cost.

For more information, contact the recall Web site at [www.l2035recall.com](http://www.l2035recall.com) or the HP L2035 Recall Helpdesk at (800) 254-2280 between 8 a.m. and 9 p.m. ET Monday to Friday and between 10 a.m. and 5 p.m. ET Saturday. Consumers also can write to Philips' at North America Quality and Customer Care Manager, Philips PC Peripherals, Holly Sugar Boulevard, 2 North Cascade Ave, Suite 200, Colorado Springs, CO 80903.

### **MIOSHA Civil Case**

On May 24, 1999, a crew from the construction company was installing sewer pipe when a cave-in occurred. The employee, a 52-year old pipe layer, was pronounced dead at the scene after rescuers worked for several hours to extricate him from the trench. The fatality occurred in an area of the excavation that was approximately 18 feet deep, with vertical walls, and without any protection to guard against cave-ins.

The investigation revealed that the company knew of the substantial risk of injury to employees engaged in trenching work, and failed to provide trenching support to prevent injury to their employees. Company officials were at the job site and made no effort to protect their employees. Additionally, they failed to furnish the employee a place of employment free from recognized hazards that were likely to cause death or serious physical harm.

On March 2, 2000, 30 citations for civil violations of the Michigan Occupational Safety and Health Act were hand delivered to the company, including 12 alleged willful serious violations, 12 alleged serious violations, and six alleged other-than-serious violations. Six of the 12 alleged willful violations relate directly to the fatality. The proposed penalties totaled \$657,500. The company has appealed the 30 civil citations resulting from this incident, and the MIOSHA administrative appeal concerning the civil violations has been held in abeyance until the conclusion of the criminal case.

Now that the criminal case has concluded, MIOSHA will pursue the civil case. In addition to the employee's fatality, there are 10 outstanding cases (subsequent to the fatality) that are in the MIOSHA appeal process, with 115 proposed violations and \$573,977 proposed penalties. Total proposed penalties, including the employee fatality, for the company exceed \$1.2 million.

## **New aircraft drinking water data confirms earlier results**

A second round of EPA testing shows that 17.2 percent of 169 randomly selected passenger aircraft carried water contaminated with total coliform bacteria. The latest round of tests was performed on domestic and international passenger aircraft at airports nationwide in November and December of last year. The results confirm the presence of bacteria at levels warranting continued EPA scrutiny.

The information is intended to help the public make informed decisions while traveling on aircraft. Passengers with compromised immune systems or others concerned may want to request canned or bottled beverages and refrain from drinking tea or coffee unless made with bottled water.

Total coliform and E. coli are indicators that other disease-causing organisms (pathogens) may be present in the water and could potentially affect public health. When sampling identified total coliform in the water of a domestic aircraft, that aircraft was disinfected and retested to ensure that the disinfection was effective. In instances where foreign flag aircraft tested positive for total coliform, those airline companies were notified of the positive test results and advised to disinfect and retest the aircraft.

### **▪ Round one**

As part of the first round of sampling, EPA, during August and September 2004, randomly tested the water supplies on 158 aircraft nationwide. Aircraft tank water is used in the galleys and lavatory sinks. Initial testing of onboard water supplies revealed 20 aircraft (12.7 percent) with positive results for total coliform bacteria, with two of these aircraft also testing positive for E. coli. Following those tests, EPA announced that further testing would take place, and efforts were undertaken to reach agreements with airlines to more closely monitor water quality on planes.

### **▪ Round two**

In EPA's second round of water quality sampling, 169 aircraft were tested. The sampling included water from galley water taps as well as lavatory faucets. Testing found that 29 of these aircraft (17.2 percent) were total-coliform-positive. E. coli was not found in the 169 aircraft included in the second round.

Adding together the results of the first and second rounds of testing, EPA tested 327 aircraft in 2004, with approximately 15 percent found to be total-coliform-positive.

### **▪ Agreements signed**

Following the first round of airline water testing in November 2004, EPA announced that agreements had been signed with the following airlines to increase monitoring of water quality testing and disinfecting processes:

- Alaska Airlines,
- Aloha Airlines,
- American Airlines,
- America West,
- ATA Airlines,
- Continental Airlines,
- Hawaiian Airlines,
- JetBlue,
- Midwest Airlines,
- Northwest Airlines,
- United Airlines, and
- US Airways.

Two additional airlines, Delta Airlines and Southwest Airlines, are currently negotiating separate agreements with EPA. Collectively, these 14 carriers represent the majority of U.S. flag carrying aircraft transporting the flying public. The agency will continue to work with smaller, regional and charter aircraft carriers to address drinking water quality with agreements similar to those reached with Air Transport Association (ATA) members. These agreements will govern airline drinking water safety until additional regulations are completed.

EPA began a review of existing safe drinking water guidance to airlines in 2002. In response to the aircraft test results, EPA is conducting a priority review of existing regulations and guidance. The agency is placing specific emphasis on preventive measures, adequate monitoring, and sound maintenance practices such as flushing and disinfection of aircraft water systems.

For more information on the regulation of water supplies aboard passenger aircraft and to view publicly available testing data, visit [www.epa.gov/airlinewater](http://www.epa.gov/airlinewater).

## **Fatal fall from elevated forklift platform leads to over \$50,000 in proposed penalties**

OSHA has cited a Georgia agricultural services company for exposing workers to fall hazards at the company's bulk fertilizer warehouse. The agency is proposing penalties totaling \$51,250.

"Falls are preventable," said John Deifer, OSHA's Savannah area director. "This tragic accident would not have occurred if management had used safety equipment readily available."

OSHA began an investigation on August 26 after being notified that a worker had died from injuries sustained in a fall from an elevated forklift platform. According to the OSHA investigative report, the employee was struck by a piece of electrical conduit as it was being removed from overhead beams, causing him to lose his balance and fall eight feet to the floor below.

The company received one willful citation, with a proposed penalty of \$49,000, for failing to provide standard guardrails on the pallet or fall arrest equipment for the employee. A "safety cage" equipped with standard guardrails was available in the warehouse. OSHA issues a willful citation when an employer has shown an intentional disregard of, or plain indifference to, the requirements of the Occupational Safety and Health Act and regulations.

OSHA also issued two serious citations unrelated to the fatal accident, with total proposed penalties of \$2,250, for failing to have a "lockout-tagout" program that would prevent workers from being caught in or struck by energized equipment during repair or maintenance, and for operating a forklift with a defective safety signal.

The company has 15 working days to contest the citations and proposed penalties before the independent Occupational Safety and Health Review Commission.

## **Construction company sentenced in worker's death**

On October 21, 2004, a Michigan construction company was found guilty by Judge Colleen A. O'Brien of a Michigan Occupational Safety and Health Administration (MIOSHA) felony in the 1999 workplace fatality of an employee. This landmark criminal case in workplace safety was first brought by Governor Jennifer M. Granholm as Attorney General.

On January 5, 2005, Judge O'Brien handed down the sentence in Oakland County 6th Circuit Court against the company, which received two year's probation and the maximum statutory penalty of \$10,000 for the MIOSHA felony.

MIOSHA investigated the May 24, 1999, cave-in that killed the employee and found that the company violated the most basic provisions of the MIOSHA trenching standard. MIOSHA is part of the Michigan Department of Labor & Economic Growth (DLEG).

"Workers have a right to go home healthy and whole every day. This is the basic tenet of the MIOSHA program," said DLEG Director David C. Hollister. "[The company] has habitually and recklessly placed their workers in harm's way. This sentence sends a message to all companies that there are serious consequences for employers who refuse to protect their workers."

Judge O'Brien named the president and major shareholder of the company, as the responsible party for the corporation throughout the two-year probation. He must file a written report with the court every month stating that they are in compliance with the conditions of probation and that they have not violated any state or federal laws. Specifically, they must advise the court of any notice of MIOSHA violations at the time the citations are issued.

In her October 21st decision Judge O'Brien said, "The conduct of Defendant's employees on the day of this fatality was, indeed, willful. Clearly, there was no 'justifiable excuse' for failing to slope, shore or otherwise protect the employees within the excavation on Lake Ravine Drive."

Based on provisions in the MIOASH Act, Public Act 154, as amended, every willful violation, which is connected to a fatality, is referred to the Michigan Attorney General's Office for criminal investigation and/or prosecution.

In addition to the statutory penalty of \$10,000, the company must also pay a \$60 crime victim fee, \$3,240 in court supervision fees, and \$600 in court costs.

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