

## ◀ News Update

### Puzder withdraws from DOL nomination; Trump names new pick

Andrew Puzder, President Donald Trump's nominee for Secretary of Labor, has withdrawn his name from consideration for the position. In his place, Trump has nominated R. Alexander Acosta, dean of the law school at Florida International University.

A native of Miami, Acosta has served in three presidentially appointed, Senate-confirmed positions, including as a member of the National Labor

Relations Board, as assistant attorney general for civil rights, and as a U.S. attorney for the Southern District of Florida. News of the nomination of Acosta, who would become the only Hispanic member of the Trump cabinet if confirmed, was met with a relatively positive response, compared with the controversy that surrounded Puzder's nomination.

AFL-CIO President Richard Trumka, who was vocal in opposition to fast-food executive Puzder, said the new nominee "deserves serious consideration." Trumka emphasized that the union will be reviewing Acosta's record carefully and that the nominee "will have to answer tough questions and explain how he will enforce and uphold labor laws to benefit working people."

Acosta's nomination was applauded by The Latino Coalition, a Hispanic business advocacy organization. Its president, Hector Barreto, called Acosta "the right choice for this important Cabinet position." He pointed to Acosta's strong leadership skills and urged the Senate to confirm Acosta "in order to get more Americans working."

According to the FIU website, Acosta serves as chairman of U.S. Century Bank, the largest domestically owned Hispanic community bank in Florida.

Department of Labor agencies include OSHA, as well as the Mine Safety and Health Administration, The Bureau of Labor Statistics, and the Office of Disability Employment Policy, among others. ▲

### CONTENTS

News Update.....	1
Think your hearing loss is work-related? Maybe not.....	2
Lawmakers introduce measure to strengthen OSH Act.....	2
Compliance Report.....	3
These CEOs walk the safety walk. They talk the safety talk.....	3
Trainer's Corner.....	6
Ergonomics: Get a grip on hand and wrist hazards.....	6
Ask the Expert.....	6
From the States.....	7
News from Alaska, Michigan, and Virginia.....	7
Enforcement.....	8
Pitfalls of noncompliance.....	8



### Trump regulatory freeze delays OSHA, DOT rules

Shortly after the inauguration of President Donald Trump, all executive branch departments and agencies were directed to freeze most pending regulatory actions in order to allow time for the new administration to review them. Two recent safety-related final rules are affected by the freeze.

Under the freeze, agencies may not submit regulations for publication in the *Federal Register*, must withdraw any regulations submitted for publication but not yet published, and must postpone the effective date of final rules that have already been published but have not yet taken effect for at least 60 days.

The first safety rule affected by the freeze is OSHA's January 9 final rule

aimed at reducing beryllium exposure in the workplace. Originally slated to take effect on March 10, 2017, the new effective date for the rule is March 21, 2017.

The rule reduces the permissible exposure limit (PEL) for beryllium to 0.2 micrograms per cubic meter of air ( $\mu\text{g}/\text{m}^3$ ) over an 8-hour time-weighted average, down from the current PEL of 2  $\mu\text{g}/\text{m}^3$ . The rule also includes a short-term exposure limit of 2  $\mu\text{g}/\text{m}^3$  over a sampling period of 15 minutes. It also includes requirements for exposure assessment, control methods, respiratory protection, personal protective clothing and equipment, housekeeping, medical surveillance, hazard communication, and recordkeeping.

(continued on page 2)

**Terms of Use:** BLR grants you, the individual or organization subscribing to this newsletter, the right to copy up to three (3) news items per issue for electronic distribution, provided that the distribution is solely within your organization and the BLR copyright notice is retained on each copy. Any other copying, internal or external electronic distribution, or reproduction without BLR's written permission is a violation of copyright law and this grant.

The Department of Transportation's Federal Motor Carrier Safety Administration (FMCSA) also has a rule delayed by the freeze. The final rule titled "Minimum Training Requirements for Entry-Level Commercial Vehicle Operators," initially effective February 6, 2017, is postponed to March 21, 2017.

The FMCSA rule establishes new minimum training requirements for certain individuals applying for their commercial driver's license (CDL) for the first time, applying for an upgrade of an existing CDL, or seeking a hazardous materials, passenger, or school bus endorsement for the first time. The new requirements create a core curriculum for entry-level training for each class of CDL and endorsement and require training to be given by a registered provider.

The February 7, 2020, compliance date for the rule has not changed due to the regulatory freeze. ▲

## Think your hearing loss is work-related? Maybe not

You may fault workplace exposure for your hearing loss. But the problem could be daily sounds you encounter off the job.

Unless your hearing is tested, it's hard to know if it's damaged. That's the conclusion of a recent survey by the Centers for Disease Control and Prevention (CDC). The CDC analyzed thousands of hearing tests on adults and found that 20 percent of people who reported job-related noise exposure had hearing damage caused by everyday sounds. The damage, which appears as a distinctive drop in the ability to hear high-pitched sounds, appeared as early as age 20.

According to the CDC, too much noise exposure at home or in the community—from things like using leaf blowers to attending loud concerts—can damage hearing as much as working in a very noise place. Explained CDC Acting Director Anne Schuchat, "40 million Americans show some hearing damage from loud noise, with nearly 21 million reporting no exposure to loud noise at work. This can be distressing for people affected and their loved ones."

The CDC study found:

- About 53 percent of adults with noise-induced hearing damage reported no job exposure to loud sounds.
- Almost one in four adults aged 20 to 69 who reported good to excellent hearing already had some hearing loss.
- About one in five adults who reported no job exposure to noise showed hearing damage indicative of general noise exposure.
- The presence of hearing loss increases with age. ▲

## Lawmakers introduce measure to strengthen OSH Act

Democrats on the House Committee on Education and the Workforce have reintroduced the Protecting America's Workers Act, legislation they say would strengthen and

modernize the Occupational Safety and Health (OSH) Act of 1970. Similar legislation has been proposed in the past but has not been successful.

The measure was introduced by Representative Joe Courtney (D-CT) during the week marked by the 7-year anniversary of the 2010 Kleen Energy Plant explosion in Middletown, Connecticut. Six workers were killed and dozens more were injured in that catastrophe. Courtney said that incidents like Middletown and a deadly Texas fertilizer plant explosion in 2013 demonstrate that "the benefits of ensuring a safe and healthy workplace are not just confined to the facility's property—local communities also have a major stake in the safety of these workplaces."

Supporters say the proposed bill would give OSHA the tools to ensure that employers promptly correct hazardous working conditions, protect workers from retaliation when they blow the whistle on unsafe working conditions, and hold employers accountable for violations that cause death or serious injury to workers.

The Protecting America's Workers Act would:

- Expand OSHA coverage to municipal workers in the 25 states covered by federal OSHA.
- Require that employers correct hazardous conditions while a citation for a serious, willful, or repeat violation is being contested.
- Improve whistleblower protection.
- Update obsolete consensus standards incorporated into the OSH Act in 1970.
- Provide authority for increased civil monetary penalties for willful and serious violations that cause death or serious injury.
- Authorize felony penalties against employers who knowingly commit OSHA violations that result in death or serious injury and extend penalties to corporate officers and directors. Currently, criminal penalties are considered misdemeanors.
- Require OSHA to investigate all cases of workplace death and serious injury.
- Give families of workers killed on the job the right to meet with OSHA investigators, receive copies of citations, and have the chance to make a statement before settlement negotiations take place.
- Allow the Secretary of Labor concurrent enforcement authority in states where the state plan fails to meet minimum requirements. ▲

Patricia Trainor, JD, *Vice President, Content and Product Development*; Robert L. Brady, JD, *Founder*; Emily Scaze, *Senior Editor*.

*OSHA Compliance Advisor* is issued by BLR—Business & Legal Resources, 100 Winners Circle, Suite 300, Brentwood, TN 37027.

ISSN: 0896-9949 ©2017 BLR®—Business & Legal Resources

Issued 24 times per year. Subscription price: \$299.00 annually.

Authorization to photocopy items for internal or personal use or the internal or personal use of specific clients is granted by Business & Legal Resources. For permission to reuse material from *OSHA Compliance Advisor*, ISSN 0896-9949, please go to <http://www.copyright.com> or contact the Copyright Clearance Center, Inc. (CCC), 222 Rosewood Drive, Danvers, MA 01923, 978-798-8400. CCC is a not-for-profit organization that provides licenses and registration for a variety of uses.

# ◀ Compliance Report

## These CEOs walk the safety walk. They talk the safety talk.

*And their performance shows the impact of that commitment*

Leadership commitment is the apple pie and motherhood of safety and health. When leaders care, and demonstrate that care, it sets the tone for the entire organization. Without the dedication of those at the top, it's unlikely—some say impossible—for a business to grow the kind of culture that leads to continuous improvement and sustainable safety excellence.

When the National Safety Council announced its *2017 CEOs Who “Get It,”* we were eager to meet some of these outstanding safety leaders and share their stories with Safety.BLR.com® readers. We caught up with three who represent diverse industries and approaches. They're an inspirational bunch, and, if you're so inspired, meet the rest at <http://www.safetyandhealthmagazine.com/articles/15148-ceos-who-get-it>.

---

### **RYAN NILES, CEO, Niles Industrial Coatings, Fenton, Michigan**

The first thing that catches your eye when you land on the Niles Industrial Coatings website ([nilesindustrial.com](http://nilesindustrial.com)) is a prominent announcement that the company's employees have worked 1 million hours without an OSHA recordable incident. The more time you spend on the site—and with CEO Ryan Niles—the more you sense the depth of that commitment.

Headquartered in Fenton, Michigan, Niles Industrial Coatings is a third-generation, family-owned industrial painting contractor that opened for business in 1958. Customers include leading corporations like Dow Chemical, U.S. Steel, GM, and Chrysler®. A separate division performs scaffolding work. The workforce fluctuates seasonally from about 200 to about 450.

CEO Ryan Niles, who notes, “We're really in the people business,” credits his father for setting the tone for safety many years ago. As the story goes, the elder Niles once asked a new employee what his job was. The worker answered “painter.” But Niles corrected him and said, “No you're not. First you're a safety guy. Then you're a painter.”

While Niles Industrial Coatings is clearly motivated by doing the right thing, the business has also found that operating a safe workplace provides an important, competitive advantage. Workers confidently perform many tasks that other competitors cannot, or will not, because they know how to do the work without getting hurt.

### **Staying close and listening**

Asked to describe his approach to worker protection, Niles says it's all about staying close, both literally and figuratively, to his employees. He personally visits the

company's biggest jobsite—the Dow Chemical plant in Midland, Michigan—several times a week. “I'm there for the safety tailgate,” he says. “Employees know I care and that I take the time to listen.”

The same is expected of safety team members who are encouraged to be a caring presence and a resource—not to play the role of safety cop. Safety professionals are present full-time at the largest jobsites, and the department provides oversight to all project locations.

Another factor contributing to the company's notable safety performance is “a habit of picking the right customers.” Niles points, for example, to the Dow site, where between 100 and 200 Niles Industrial Coatings employees work. “Dow is very supportive of our safety efforts. We share safety resources, such as speakers and training opportunities with them. It's an open partnership.”

Niles serves as chairman of an occupational safety and health steering team that includes representatives from his company, Dow, and other on-site contractors. The group meets monthly to discuss safety, review any near misses, and share ideas, new technology, etc.

Another example of the “staying close” philosophy is the daily safety huddle Niles leads for all foremen of crews of five or more workers. This meeting, conducted by phone from jobsites, covers lessons learned, safety communications, incidents, and techniques.

When Niles first proposed the idea of the daily safety huddle to his foremen, he got some pushback. “They said they were all too busy, but now they're really into it and share the ideas with the guys under them.”

### **Chief exec leads the charge**

As a CEO who “gets” the importance of worker protection, Ryan Niles shared other observations that characterize his leadership:

- “We always say a safe job is the most efficient job. If you're doing it safely, it will be fast and productive.”
- “Our biggest safety challenge is bringing in new employees. It usually takes 30–60 days for them to feel like they're part of the family and to know that we're not giving out safety glasses because OSHA or our customer tells us to. We're doing it because it's our culture and it's the right thing to do.”
- “We do a lot less directing and a lot more asking questions and empowering people to come up with safety ideas. When it's their ideas, they're much more likely to embrace them.”

*(continued on page 4)*

## LARRY HOGAN, CEO, H+M Industrial EPC, Pasadena, Texas

H+M is an industrial engineering and construction company that partners on EPC projects (engineering procurement construction) throughout the Gulf Coast region. The projects are big and complex and could involve dock extensions, refurbishing of large storage tanks and pumps, and other “out of the water” activity. The company began as an engineering and design firm 28 years ago and, today, employs about 260, according to CEO Larry Hogan.

“We have to keep our people safe because, as a service company, they are our primary asset,” he explains. “We feel that not only *can* injuries be prevented—they *must* be prevented. And we expect an employee mind set that says safety is not a choice.”

A number of years ago, the company decided to up its safety game. It hired a highly experienced safety manager who Hogan says has had a tremendous impact on the company. Assisting him is a health and safety specialist who focuses primarily on communication. H+M assigns a dedicated safety professional to all of its larger jobs.

In addition to hiring key safety personnel, Hogan went through an evolution in his own understanding of safety. Having come into the construction business through engineering, Hogan says he was not knowledgeable about safety and basically assumed that workers behave safely as a matter of course because it’s part of their job. “For some people it is,” he now acknowledges. “But I learned that for others it’s not.”

Hogan came to understand that a safety sense and commitment must be instilled in employees. At H+M, this starts early. New employees are handed a succinct document that lists the company’s 10 lifesaving rules. These address everything from required tie-off at 6 feet or above to the need for authorization before entering a permit-required confined space to prohibitions against working on energized systems and altering or using an untagged or out-of-date scaffold.

On the bottom of the document is a paragraph that describes employees’ stop-work authority. It differs from similar documents by other employers that empower employees to stop work if they encounter unsafe conditions. The H+M version describes the employee’s “*obligation* to stop any task or operation where concerns or questions regarding the control of health, safety, or environmental risks exists.” Employees must sign and date the document as a personal statement that they will work safely with a “brother’s keeper” attitude.

### Cards and champions

Safety affirmations are important, but they’re not enough. H+M has developed a robust safety and health program that starts at the top and engages employees in a number of ways. Every quarter, a safety champion is selected by safety personnel and supervisors. The individual gets bragging rights

### It’s not a standard, but it should be standard practice

OSHA is unequivocal in its promotion of management commitment as an essential element in worker protection. Although no OSHA standard mandates that leaders take on the safety mantle, the agency consistently advises executives to lead the charge.

According to OSHA, “Management provides the leadership, vision, and resources needed to implement an effective safety and health program. Management leadership means that business owners, managers, and supervisors:

- Make worker safety and health a core organizational value.
- Are fully committed to eliminating hazards, protecting workers, and continuously improving workplace safety and health.
- Provide sufficient resources to implement and maintain the safety and health program.
- Visibly demonstrate and communicate their safety and health commitment to workers and others.
- Set an example through their own actions.

OSHA has identified four leadership actions that put that commitment into motion:

1. Communicate your commitment to a safety and health program.
2. Define program goals.
3. Allocate resources.
4. Expect performance.

and recognition gifts like cash and a fire-resistant jacket. Several times a year, company and safety leaders identify a work group that’s gone above and beyond safety expectations. They’re singled out for recognition and a special lunch.

Employees earn daily recognition through a field safety observation program that goes by the name TIP for “Take It Personal.” Employees at all levels are expected to regularly complete TIP cards that identify coworkers’ safe or at-risk behaviors. Regardless of the conclusion of the observation, the observer is encouraged to keep the contact positive. The cards are collected by members of the safety staff who analyze them and report on trends and corrective actions.

H+M conducts ongoing health, safety, and environmental audits and has developed an effective employee orientation and safety training process. All incident investigations require management review and tracking of action items through closure.

### Chief culture change officer

The culture change begun several years ago at H+M has yielded positive results, including an exemplary safety record. Hogan points to several contributing factors:

- A demanding contractor/subcontractor prequalification process and ongoing management of the relationships
- Leadership site visits and management walk-throughs
- Consistent measurement of safety strategy; plans, and standards to drive continuous improvement; and

(continued on top of page 5)

- A checks-and-balances approach to ensure that the safety process addresses gaps related to the work, the work environment, and human factors.

---

## **MAJOR GENERAL ANDREW MUELLER, chief of safety, United States Air Force (USAF), and commander, Air Force Safety Center**

Major General Andrew Mueller oversees about 1,500 safety professionals throughout the Air Force—half enlisted and half civilians. At the Air Force Safety Center, he leads 130 safety specialists who work and train in four disciplines—aviation safety, space safety, occupational safety, and weapons/nuclear weapons safety.

Mueller sees his chief responsibility as setting policy that enables the most efficient safety programs to be rolled out, commandwide, at the lowest possible level. “My approach is to make safety personal—to encourage personal responsibility for safety, and to encourage proactive measures, not waiting to see if we’re safe by a lack of mishaps.” Mueller says that, too often, leaders focus on safety after a mishap, asking what could have been done to prevent it. Instead, he prefers to focus on measurements that prevent mishaps from ever occurring.

Mueller is among safety professionals who retain a belief in zero. He believes the quest to eliminate on-duty mishaps can be achieved, but only with a proactive, positive approach that emphasizes personal responsibility.

### **Familiar challenges, unique mission**

Asked about the unique challenges of leading safety within the military, Mueller says one of the biggest he faces stems from demographics. “In the Air Force civilian population we have a more mature workforce that’s more adapted to procedures and comfortable with what they do.” The result is that the older workers tend to become complacent about safety compared with younger workers.

Another challenge familiar to safety professionals in many industries is a high turnover rate. This is due in part to relatively short Air Force enlistment cycles. To address this, Mueller challenges his staff to make sure their safety messaging is as fresh and compelling on the first day of their command as on their last day. And he encourages them to develop a personal leadership style that will resonate with the disparity of ages within the USAF workforce.

Less familiar in a civilian setting is the requirement to instill safety in the minds of individuals “who willingly accept risk with confidence.” Mueller acknowledges that those who join the military may be more comfortable with risk than other employees. Hazard recognition is one hedge against that dynamic.

For example, airmen tasked with maintaining multimillion-dollar aircraft must be fully aware of the hazards and procedures to prevent those hazards from turning into mishaps. The stakes are high, and the quality of training and equipment provided must be high as well.

According to Mueller, the same expectations that apply when Air Force personnel are working at their home base guide

### **Shining a light on C-suite safety**

Safety Coach and Consultant David Sarkus believes an increasing number of executives are recognizing that safety is inextricably linked to business success. According to Sarkus, “Leaders may not need to know every detail about safety processes, but they need to ask the right questions and listen, then get the needle moving through the people below them.”

What does top-level safety leadership look like at successful organizations? Sarkus says you certainly see people pursuing safe behaviors like wearing personal protection equipment. And you hear them talking about safety regularly and openly. “Executives would also be talking about safety in a sophisticated way. They know the terminology and they talk the way safety professionals talk,” because they’ve been educated by them. As well, they understand the need for reporting and sharing near misses.

In businesses where safety comes from the top, you would also expect to see safety metrics posted and visible to employees. And if the metrics show a particular issue of concern, leaders know how to intervene and make changes needed to improve the downstream measures. Safety-minded executives must be aware of, and support, metrics used to hold managers accountable for actions that will lead to fewer incidents and related losses, Sarkus adds.

those deployed in war zones. “One of our pillars is to provide safety education and training so that we instill the same habit patterns at home that, if followed, will keep young airmen safe even in the toughest of conditions,” he adds.

He offers the example of placing a chock underneath a tire to keep an aircraft from rolling during maintenance. It could be tempting to avoid this simple precaution in a war zone where refueling or maintenance must be accomplished quickly. But Air Force training emphasizes the importance of working the safe way, regardless of the environment. The approach seems to be working. Mueller says the Air Force does not see higher mishap rates in deployed operations than at home stations. In fact, in some cases, rates in war zones are even lower.

### **Tips from the top**

Mueller also shared the following observations about the Air Force and safety:

- The USAF is aligning its internal safety training with designations like the “certified safety professional” and “associate safety professional” to help personnel make the transition to civilian safety positions.
- Through safety culture surveys, the Air Force has learned that mishap rates are lower when personnel feel better about their work environment. That leads to higher morale and increased productivity.
- Most fatalities in the Air Force occur off duty. The Air Force sponsors opportunities for airmen to pursue potentially risky recreational activities in a structured environment. The branch also offers motorcycle safety training courses. ▲

# ◀ Trainer's Corner

## Ergonomics: Get a grip on hand and wrist hazards

It's important to protect workers' hands, a task made more difficult by the fact that a worker's hands are the likeliest part of their body to be exposed to workplace hazards like chemical exposures, burns, and moving equipment parts.

In addition to these hazards, workers' hands are often exposed to ergonomic hazards, placing them at risk of disabling injuries to the nerves and soft tissues of the hands and wrist.

Consider these common ergonomic hand hazards, and look for ways to implement safe practices in your workplace.

When you're working to identify ergonomic hazards that can affect the hands and wrists, look for:

- **Forceful exertion.** In the hands, this is a matter of the grip strength required to hold a tool or work piece and how long workers have to maintain that grip, together with how frequently they must repeat it.

- **Sharp edges.** Gripping sharp edges or resting the hand or wrist against sharp edges can damage soft tissues and nerves. If, for example, the worker is repeatedly pressing a hard plastic trigger, the finger can be damaged.
- **Awkward postures.** For hands and wrists, the most common "awkward posture" is a bent wrist, which places pressure on the nerve sheath entering the hand.
- **Vibration.** Whole-body vibration typically leads to back pain, but vibration in hand tools or work pieces specifically affects the hands and wrists. In addition to causing damage directly, vibration may increase the grip strength needed to perform a task.

Relieve the ergonomic stressors that can cause hand and wrist injuries by:

- **Softening the point of contact.** Reduce damaging contact with hard and sharp edges using padding.
- **Achieving a neutral wrist posture.** A straight wrist is neutral; a bent wrist

is subject to potentially damaging pressure. Neutral wrist postures can be achieved by purchasing tools with ergonomic handles and providing wrist rests.

- **Resting and stretching.** Breaks allow stressed tissues and joints to recover from work stresses, and stretching exercises can also help to prevent injury.
- **Making it easier to hold.** Mechanical aids and ergonomically designed, padded, nonslip grips can reduce the grip strength required to hold a tool. Making different sizes of handles available can also reduce the required grip strength. Suspending or counterbalancing tools can reduce the amount of weight that is placed on a worker's hand and wrist.
- **Rotating job tasks.** Reduce repeated or prolonged exposures by rotating workers through job tasks with different physical demands throughout the workday.
- **Maintaining tools properly.** A properly maintained tool will vibrate less and require less grip strength than a poorly maintained tool.
- **Providing protective gloves.** Vibration-dampening gloves can help to control vibration hazards. ▲

## ◀ Ask the Expert

### Storage of compressed nitrogen tanks

**Is it acceptable to store compressed nitrogen tanks on carts for about 2 weeks while waiting for analysis results, or do they have to be chained and stored upright?**

We assume you refer to gaseous nitrogen that is not mixed with other gases that would classify the bottles as flammable. Pure nitrogen is not flammable, so it is not regulated under OSHA's storage requirements for flammable liquids.

However, the OSHA compressed gas rule (29 CFR 1910.101) requires employers to follow the Compressed Gas Association's (CGA) Pamphlet P-1 guidelines for the in-plant handling, storage, and use of all compressed gases in cylinders. Refer to the May 23, 2008, OSHA letter of interpretation titled Storage and use of compressed gas cylinders for a more detailed explanation about the use of voluntary consensus standards like CGA and other organizations to comply with the

gas cylinder storage requirements. Also review the storage and handling requirements of the safety data sheet. ▲

### Guarding rotating machinery

**If we have rotating machinery that is contained in latched cabinets, is it an OSHA requirement that we require the use of a tool to access these cabinets?**

OSHA's machine guarding requirements at 29 CFR 1910.212 are performance-based, meaning that employers may use any effective method of machine guarding as long as it provides the needed protection. The regulation states:

"One or more methods of machine guarding shall be provided to protect the operator and other employees in the machine area from hazards such as those created by point of operation, ingoing nip points, rotating parts, flying chips and sparks. Examples of guarding methods are barrier guards, two-hand tripping

devices, electronic safety devices, etc." (29 CFR 1910.212(a)(1))

If you are enclosing rotating parts in latched cabinets as a form of machine guarding, it is important that employees cannot easily defeat the machine guarding method you have chosen. A 2006 OSHA letter of interpretation (LOI) states that "barrier guards must be affixed such that they cannot be easily defeated." Although this LOI specifically applies to an access door for a trash compactor, the same conclusion applies here: "The door would need to be secured such that it could not be easily circumvented (e.g., by use of means such as fasteners not readily removable by the operator, a lock, etc.), or, if access is desired using only a latch, an interlock or other guarding method must be used."

Therefore, based on the description in your question, you would need to use a lock, a special tool, or some other means of preventing employee access to the rotating parts enclosed within the cabinets unless you also use another guarding method, such as an interlock. ▲

# ◀ From the States

## ALASKA

### Contractor cited, fined following fatality

Following a fatal incident, the Alaska Department of Labor and Workforce Development hit an Anchorage contractor with four citations and issued fines of \$280,000 for willful violations of Alaska safety standards.

On September 30, 2016, Nelson Tinker, a 24-year-old worker, was killed when a concrete retaining wall he was preparing for demolition collapsed, crushing him. The labor department determined that his employer, the sole proprietor of the contracting business, failed to conduct the required engineering survey to determine the state of the structure and the possibility of an unplanned collapse before demolition.

The state claimed that the employer failed to ensure the structure was properly braced or stabilized against a collapse. What's more, the business owner provided no safety training or instruction to employees.

Making matters worse was a determination by investigators that the employer misclassified his employees as independent contractors. Miscalculation refers to improperly labeling workers as independent contractors rather than as employees. State labor officials say this allowed the businessman to evade his duty to provide employees a workplace free of recognized hazards.

Misclassification also lets the owner avoid paying workers' compensation premiums, unemployment insurance, and taxes.

State Labor Commissioner Heidi Drygas said the case illustrates the tragic toll misclassification can take on workers.

"If Nelson Tinker had been afforded the protections he deserved as an employee, he would be alive today," she said.

Alaska is one of 37 states that have signed a Memorandum of Understanding with the U.S. Department of Labor to work to combat worker misclassification. ▲

## MICHIGAN

### MIOSHA recognizes companies for safety excellence

Two companies, Columbian Logistics Network/Grand Rapids Distribution Center and Glasterder Incorporated, a Saginaw manufacturer of bar equipment, have been awarded renewed status as Michigan Safety and Health Achievement Program (MSHARP) worksites by Michigan Occupational Safety and Health Administration (MIOSHA).

Like federal OSHA's Voluntary Protection Programs, MSHARP acknowledges employers and employees committed to creating a workplace culture that makes safety their top priority. The Michigan program helps small manufacturers develop, implement, and continuously improve their safety and health management systems.

Columbian Logistics Executive Vice President Robert Christian says safety is his company's number-one value. "Achieving MSHARP status further underscores our ability to provide complete supply chain management solutions to our customers who entrust us with the safe and efficient handling of their goods."

Glasterder Vice President Kim Norris credits the shared commitment of employees and safety leadership with her company's performance.

MSHARP provides incentives for employers to enhance accident and illness prevention by anticipating problems, not reacting to them. Participating worksites earn an exemption from regularly programmed MIOSHA inspections on a yearly basis.

Among best practices in use by these award-winning businesses:

- Assigning chocks to each hi-lo truck to ensure trailers will be chocked before being loaded and unloaded.
- Adding blue lights to make the hi-los visible to pedestrians and other operators; *and*
- Switching from wooden to steel carts on the manufacturing floor to improve safety and quality. ▲

## VIRGINIA

### State settles with Goodyear on multiple fatality cases

The deaths of four employees over a 1 year period at a Danville manufacturing plant have resulted in a substantial settlement and fines for one of the most well-known tire makers in the world.

Virginia's occupational safety and health program (VOSH) announced a joint, comprehensive settlement agreement with The Goodyear Tire & Rubber Company (Goodyear) and the United Steelworkers (USW). The agreement provides for a total of \$1.75 million in penalties and calls for elimination of the numerous workplace hazards identified during 11 VOSH inspections.

The agreement also includes an unusual commitment from all parties to help the plant become a national leader in safety and health by completing an application for Virginia's Voluntary Protection Program (VPP). The state says Goodyear will be able to use up to \$750,000 in penalties at the site to abate hazards identified during the inspections.

Said State Labor Commissioner C. Ray Davenport, "I can think of no better tribute to those who lost their lives and those who continue to work at the plant than to take the combined resources and efforts of the department, Goodyear, and the United Steelworkers to turn the Goodyear Danville Plant into one of the safest and healthiest places to work in the country."

Over the past 18 months, Virginia OSHA conducted four fatal accident investigations, two nonfatal accident investigations, three employee complaint inspections, and comprehensive safety and health "wall-to-wall" inspections. The settlement resolves all the open cases.

The state believes the VPP application process could take as long as 5 years. Under the agreement, Goodyear will host three VPP training sessions for hundreds of area employers during 2017, 2018, and 2019.

USW Local Union President Danny Barber commented, "While nothing will replace our sister and brothers who were fatally injured, the elements of the settlement agreement between VOSH and Goodyear will greatly improve safety at the Danville plant." ▲

# ◀ Enforcement

## Pitfalls of Noncompliance

*You can avoid violations like these by knowing how to comply with federal and state safety laws.*

### Employees exposed to chemical, machinery hazards

*Printing and embroidery company  
Connecticut*

*OSHA Region 1*

**Serious violations:** An inspection of a printing and embroidery company triggered by a complaint resulted in five serious violations for the employer. Citations were issued for violations of OSHA's walking and working surfaces standard, personal protective equipment (PPE) requirements, lockout/tagout standard, electrical safety requirements, and hazard communication standard.

 **Penalty:** \$26,188 fine

### Roofing contractor exposes workers to fall hazards

*Roofing contractor  
Rhode Island*

*OSHA Region 1*

**Repeat and serious violations:** A Rhode Island roofing contractor was cited with four repeat and two serious violations following an inspection triggered by a complaint. Repeat violations were issued for failing to provide fall protection as required, failure to train employees on fall hazards and fall protection, failure to provide training on stairway and ladder safety, and electrical hazards. Serious violations were issued for eye and face protection deficiencies and ladder hazards.

 **Penalty:** \$54,976 fine

### Plumber cited for multiple violations

*Plumbing, heating, and air-conditioning contractor  
Mississippi*

*OSHA Region 4*

**Serious violations:** A Mississippi plumber was cited with four serious violations following a planned OSHA inspection. The employer was cited with a violation of the general duty clause for allowing an employee to work from the bucket of a track hoe, which exposed the employee to a struck-by hazard. Additional citations were issued for failure to provide fall protection, deficiencies in protective systems for trenches and excavations, and a violation of requirements for rigging equipment during material handling.

 **Penalty:** \$11,011 fine

### Steel manufacturer fined

*Steel manufacturing facility  
Georgia*

*OSHA Region 4*

**Serious violations:** OSHA cited a Georgia steel manufacturer with three serious violations following an inspection triggered by a complaint and conducted under an amputation emphasis program. The employer was cited for violations of OSHA's lockout/tagout standard; hazards surrounding the use of cranes; and violations of OSHA's welding, cutting, and brazing standard.

 **Penalty:** \$12,720 fine

### Automotive manufacturer fined for violations

*Automotive exhaust component manufacturer  
Michigan*

*OSHA Region 5*

**Repeat and serious violations:** The Michigan Occupational Safety and Health Administration (MIOSHA) cited an automotive exhaust component manufacturer after conducting an inspection that uncovered numerous safety and health hazards. The inspection was triggered by an employee complaint. The employer was cited with eight serious, six repeat serious, three other-than-serious, and two repeat other-than-serious violations involving standards that include abrasive wheels, fire exits, welding and cutting, powered industrial trucks, metalworking machinery, lockout/tagout, hazard communication, and refuse packer units. MIOSHA conducted seven inspections at the facility from 2010 to 2016, resulting in 61 citations.

 **Penalty:** \$265,600 fine

### Masonry contractor cited for scaffold hazards

*Masonry contractor  
Wisconsin*

*OSHA Region 5*

**Serious violations:** A Wisconsin masonry contractor was cited with five serious violations as a result of an OSHA inspection conducted under emphasis programs for silica and fall hazards. Four of the violations were for scaffolding hazards, including failing to have required planking, failure to provide fall protection for employees working more than 10 feet above a lower level, and exposing employees to falling object hazards. The employer was also cited for allowing workers to use extension ladders improperly.

 **Penalty:** \$13,360 fine

### Workers exposed to multiple hazards

*Foundry  
Illinois*

*OSHA Region 5*

**Serious violations:** An aluminum die-casting foundry was cited with seven serious violations following an OSHA inspection triggered by a complaint. Citations were issued for exposing employees to excessive noise, failure to provide hand protection, violations of the medical services and first aid standard, lockout/tagout violations, hazard communication deficiencies, failure to provide necessary personal protective equipment at no cost to employees, and forklift hazards.

 **Penalty:** \$27,437 fine

### Employer fined for machine guarding violations

*Machine shop  
Louisiana*

*OSHA Region 6*

**Serious violations:** A Louisiana machine shop was cited with five serious violations and one other-than-serious violation as a result of an OSHA inspection initiated under the National Emphasis Program on amputations. The employer was cited several violations of machine guarding requirements, including failure to provide adequate machine guarding, failure to guard point of operation hazards, failure to anchor fixed machinery, failure to guard pulleys, and failure to guard overhead horizontal belts. OSHA also issued two citations under the hazard communication standard for deficiencies in labeling of hazardous chemicals in the workplace and failing to have copies of safety data sheets readily available to employees.

 **Penalty:** \$17,503 fine

# Safety.BLR.com®

The ultimate online workplace safety management and compliance information tool.



## How can Safety.BLR.com help you?

Visit [Safety.BLR.com/tour](http://Safety.BLR.com/tour) for a brief overview of the product.

**Try Risk-Free for 14 Days.**  
**Call 800-727-5257.**

**Safety.BLR.com** is an online resource for people responsible for the safety and health of employees at their workplace. Powered by BLR, this resource is trusted by thousands of safety professionals for in-depth, comprehensive, and consistent information and tools to streamline safety management and ensure compliance.

**Safety.BLR.com delivers the safety management resources you need every day.**

### Training Materials

Thousands of customizable resources, including safety talks, speaker's notes for training presentations,

handouts, quizzes, and more that covering essential safety training topics. These are perfect for implementing or improving safety training immediately.

### Time-Savers

Checklists, plans, policies, and forms ready for you to customize to your workplace. We've done the work so you don't have to.

### Library

Safety.BLR.com answers all your questions about complex OSHA requirements such as hazard communication, injury and illness reporting and recording, PPE, conducting a

job hazard analysis, and more. You'll be able to compare state and federal OSHA safety regulations. You'll also find industry-specific resource centers that will allow you to identify requirements for your facility and simplify your ability to comply.

### Latest News

What you need to know about federal and state regulations, updated daily. Our summaries enable you to quickly determine how your operations are impacted and how to comply.

