

Indiana Labor Insider

January/February 2010

Advancing the safety, health and prosperity of Hoosiers in the workplace

Mitchell E. Daniels Jr., Governor
Lori A. Torres, Commissioner of Labor

The IDOL is Here to Serve You

As I read through this issue and the information presented in it, I was struck by the variety of settings where the agency has some education, assistance or enforcement responsibility. Whether you own a pizza shop, are a supervisor at a manufacturing plant, serve as an HR representative at a large retail chain or work for your local municipal government, you probably make decisions that are governed by work we do. This issue highlights several different contexts where knowledge keeps you as the employer or worker in compliance with the law.

So whether you are confused about whether you've earned a right to be paid your accrued vacation time if you are laid off, or are the employer trying to discern whether you have to pay that worker, or what special requirements there are to hire minors under age 18, or how to avoid serious injuries in your plant, there is a sampling of information right here in this newsletter. Obviously, there is much more detailed information available to you here at our agency, and we'd be pleased to share it with you.

Through our online resources, like posting many IOSHA safety orders online, to sending this newsletter electronically to several thousand people and organizations, we try to open up our government to all of our stakeholders. Simply let us know by phone, email, website or in person what we can do for you, and we'll work hard to serve you!



Lori A. Torres
Commissioner of Labor

Kind Regards,

Lori A. Torres
Commissioner

Indiana OSHA Reminds Employers to Post Injury and Illness Summaries

Many Indiana employers are required to document and maintain records of work-related injuries and illnesses on the OSHA 300 Log. Each year, those same employers are required to post a summary (OSHA Form 300 A) of the prior year's incidents. The summary must be posted in their workplaces from February 1 to April 30.

Some industries, as well as businesses with ten or fewer employees (at all times during the previous calendar year), may be exempt from the OSHA Recordkeeping requirements. To learn if your business or employer is exempt from these requirements, please review the complete list of exempt industries online at www.osha.gov/recordkeeping/index.html. Employers may also download the OSHA Recordkeeping Forms on this website. For additional questions on OSHA Recordkeeping, please contact INSafe by email at insafe@dol.in.gov or phone at (317) 232-2688.

OSHA's Form 300A (Rev. 01/2004)

Year 20__

Summary of Work-Related Injuries and Illnesses

U.S. Department of Labor
Occupational Safety and Health Administration

Form approved OMB no. 1218-0105

All establishments covered by Part 1904 must complete this Summary page, even if no work-related injuries or illnesses occurred during the year. Remember to review the Log to verify that the entries are complete and accurate before completing this summary.

Using the Log, count the individual entries you made for each category. Then write the totals below, making sure you've added the entries from every page of the Log. If you had 10 cases, write "10."

Employers, former employees, and their representatives have the right to review the OSHA Form 300 in its entirety. They also have limited access to the OSHA Form 301 or its equivalent. See 29 CFR Part 1904.35, in OSHA's recordkeeping rule, for further details on the access provisions for these forms.

Establishment information

Your establishment name _____

Street _____

City _____ State _____ ZIP _____

Industry description (e.g., Manufacturer of motor truck trailers) _____

Standard Industrial Classification (SIC), if known (e.g., 3715) _____

OR

North American Industrial Classification (NAICS), if known (e.g., 336212) _____

Employment information (If you don't have these figures, see the Handbook on the back of this page to estimate.)

Annual average number of employees _____

Total hours worked by all employees last year _____

Sign here

Knowingly falsifying this document may result in a fine.

I certify that I have examined this document and that to the best of my knowledge the entries are true, accurate, and complete.

Company name _____ Title _____

Name _____ Title _____

Number of Cases

Total number of deaths	Total number of cases with days away from work	Total number of cases with job transfer or restriction	Total number of other recordable cases
(a) _____	(b) _____	(c) _____	(d) _____

Number of Days

Total number of days away from work	Total number of days of job transfer or restriction
(e) _____	(f) _____

Injury and Illness Types

Total number of ...	(4) Poisonings
(1) Injuries _____	(5) Hearing loss _____
(2) Skin disorders _____	(6) All other illnesses _____
(3) Respiratory conditions _____	

Post this Summary page from February 1 to April 30 of the year following the year covered by the form.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time to review the instructions, search existing data sources, gather the data needed, and complete and review the collection of information. Send comments regarding this burden estimate or any other aspect of this data collection, including suggestions for reducing the burden, to Washington, DC 20503. Do not send the completed form to this office.

SAFETY ALERT: Amputations

May Cause Amputation

- Mechanical Power Presses
- Power Press Brakes
- Powered Conveyors
- Non-powered Conveyors
- Printing Presses
- Roll-Forming Machines
- Roll Bending Machines
- Food Slicers
- Meat Grinders
- Meat-Cutting Band Saws
- Drill Presses
- Milling Machines
- Shears
- Grinders
- Slitters

one of the most serious and debilitating injuries a worker may suffer. Injuries involving machinery and equipment have the potential to result in permanent disability or, in more extreme cases, death.

Most often, amputations occur when a worker operates unguarded or inadequately guarded equipment and machinery. These injuries can also happen during materials handling activities, and when workers are using forklifts and doors, as well as trash compactors and powered and non-powered hand tools.

In February 1997, the federal Occupational Safety and Health Administration (OSHA) issued instructions for Mechanical Power Presses, as a part of the agency's strategic goal of reducing amputations in general industry workplaces. Following the implementation of that program, a National Emphasis Program (NEP) on Amputations was issued. The intention of the NEP was to establish policies and procedures for identifying and reducing workplace machinery and equipment hazards, which cause or are likely to cause amputations. The NEP was adopted, as written by the Indiana Occupational Safety and Health Administration (IOSHA). The NEP was reauthorized in August 2008.

Employers can help protect employees from potential amputations. To do so, employers must be able to recognize, identify, manage and control amputation hazards which are

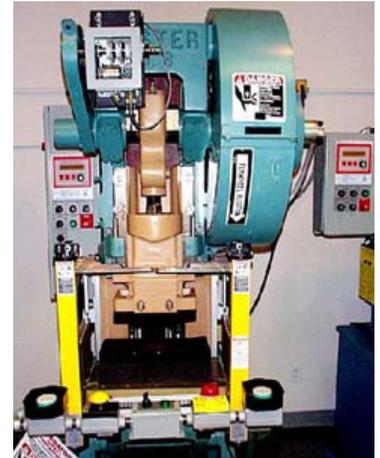
Many occupational safety and health professionals may be familiar with the adage: machinery does not discriminate between product and people—it will do the same to both. If a piece of machinery's purpose is to punch a hole, that's what it will do. Amputations are

commonly found in the workplace. Amputation hazards are caused by machinery. These can include the mechanical motion that occurs in or near machinery components, as well as the activities that workers perform during mechanical operation. Work practices, employee training and administrative controls can help to control the threat of serious injury. Aside from normal operation, the following activities involving stationary machines also

expose workers to potential amputation hazards: setting up, threading, preparing, adjusting, cleaning, lubricating, maintaining machines and clearing jams.

Machine safeguarding is one of the best ways to protect against amputations. Safeguarding can include stationary machine guards and/or restraint devices for the operator. Machine guards provide physical barriers that prevent access to a machine's hazardous areas. Guards should be secure and strong, and employees should not be able to tamper, bypass or remove them. However, guards should not obstruct the machine operator's view or prevent employees from working.

Restraint devices help prevent employee contact with points of operation and may supplement or replace guards. Devices can interrupt the normal cycle of the machine when the operator's hands are at the point of operation. They can also prevent the operator from reaching into the point of operation or withdraw the operator's hands if they approach the point of operation when the machine is in cycle. Devices must allow for safe



A mechanical power press shears, punches, forms or assembles metal or other material by means of tools or dies attached to slides or rams. For additional information, visit www.osha.gov. (Photo from www.osha.gov)

Amputations by the Numbers

180 amputations in Indiana in 2009 required days away from work.

77% of work-related amputations in Indiana affected upper extremities, most often a finger.

15 days was the average amount of time a worker suffering an amputation spent away from work.

110 amputations occurred in the Indiana manufacturing industry.

7 Hoosier workers were killed as a result of an amputation that occurred between 2003-2008.

lubrication and maintenance, and they must not create additional hazards through their use or interfere with normal machine operation. Devices must be secure, tamper resistant and durable.

Workers who are responsible for performing service or maintenance on machinery and equipment are also exposed to serious hazards, including amputations. OSHA's lock-out/tag-out standard requires the adoption and implementation of practices and procedures in order to shut off equipment, isolate it from its energy sources and prevent the release of potentially hazardous energy while the machine is being serviced.

Employers must establish an energy control program (i.e. Lockout/Tagout Programs), consisting of energy control procedures, employee training and periodic inspections. Employee training and retraining ensure that the purpose and function of the energy control programs are understood. Inspections must be done to ensure that machines do not unexpectedly startup, become energized or release stored energy when they are isolated from their energy sources. Inspections also ensure that the



A covered foot guard reduces the likelihood of the piece of equipment or machinery cycling because of an unintentional act. (Photo Jeanne Hedge, Indiana OSHA)

procedures and requirements of the OSHA standards are being followed. Programs, procedures, training and inspection guidelines should meet the needs of an employer's specific workplace and the particular types of machines and equipment they use. Lock-out/tag-out programs must be machine specific. Examples are available online at www.in.gov/dol/2384.htm

For free guidance on written programs for your organization, please visit INSafe online at www.in.gov/dol/insafe, email an INSafe Safety or Health Consultant at insafe@dol.in.gov or phone (317) 232-2688. For more information, OSHA has provided training eTools on machine guarding and lock-out/tag-out. To use the eTools, please visit www.osha.gov and click on the letter "E" for the eTool listing.



Administrative/Work Practice Control: An operator uses a two-handed control. (Photo from www.osha.gov)



It Happened Here: Elkhart County

Background: As cited in the *Safety Alert* article, in 2008 there were 180 amputations in the State of Indiana requiring days away from work. More than 60% of these amputations occurred in the Hoosier manufacturing industry.

Event: On November 17, 2009 at 9 a.m., an employee was operating a mechanical power press when he removed his safety strap from his left hand to reach for a part. The part that he reached for was missing from the part he was punching. When returning to the front of the press, the employee stepped on the foot peddle and caused the press to cycle. Since the safety strap had been removed, and the employee's hand was in the way, the machine amputated the middle finger on the employee's left hand. The same employee lost his ring finger as a result of a similar incident on an earlier date.

Lessons Learned: To reduce the likelihood and prevent similar incidents from occurring in the future, employers and employees should:

- Employers should work to foster a culture of workplace safety and health, and hold all employees accountable for

understanding and following all written safety and health policies, rules, procedures and regulations.

- Employers should provide employees with the appropriate level of supervision.
- Employers must train and retrain employees as often as necessary on safe work policies and procedures. Train employees to not reach around, over, under or through to a point of operation of a machine or piece of equipment.
- Employers should investigate all near-miss incidents to determine causality. Perform root cause analysis (RCA) as well.
- Employers should work with employees to complete and revise job hazard analysis (JHAs) as often as necessary.
- When appropriate, supervisors should issue disciplinary action for failure to follow safety and health policies and procedures.
- Working together, employers and employees must ensure that all machines and equipment are appropriately guarded and ensure that machine guards are secure, strong, durable and cannot be bypassed.
- Employees must ensure that prior to service or routine maintenance, all energy sources are locked or tagged out to prevent hazardous energy from cycling through the machine.



IDOL Recovers Nearly \$10K for Two Hoosier Employees

In 2009, the Indiana Department of Labor (IDOL) received 1,113 Applications for Wage Claim. The IDOL determined that 827 of these 1,113 applications were valid claims. The IDOL attempts to mediate valid claims and aid the claimant in receiving payment.

Indiana Law does not provide the IDOL with an enforcement mechanism when it determines that a claim is valid, so in some cases, a valid claim must be referred back to the complainant, at which time the complainant may wish to seek private legal counsel to attempt to have the claim resolved. However, in an ideal scenario, the IDOL is able to successfully assist in resolving the claim for the claimant and the employer. The following scenario is an actual example of how the IDOL successfully mediated two wage claims.

In July 2009, the IDOL received two wage claim applications, both of which were filed against the same company, for failure to pay two laid-off employees for accrued, unused vacation time. Accrued vacation time is considered a form of compensation. If there is a company policy or employment contract stipulating that certain conditions must be met before accrued vacation time will be paid out, then these conditions must be met in order for the employee to receive his or her accrued vacation pay. Vacation policies are generally left to the discretion of the employer.

However, in these two cases, the employer did not have a policy which said that certain conditions had to be met in order for vacation time to be paid out. At the time of their lay-off, the company simply told the two laid-off employees they wouldn't be receiving payment for their accrued vacation time. At this time, the employees filed separate wage claims with the IDOL.

Each claimant completed the application, and submitted documentation supporting the claims. Both claimants provided email correspondence between themselves and their former employer, in which the employer stated that they would not be paid for accrued vacation time. The claimants also submitted their offer letters from the company, which stated the agreed upon vacation policy, as well as a pay stub showing how much each of the claimants earned bi-weekly. These forms of documentation allowed the IDOL to determine that the claimants were owed vacation pay, as well as how much each of them was entitled to, based upon their bi-weekly earnings.

Upon determining the validity of their respective claims, the IDOL notified the employer that they owed both claimants payment for accrued vacation time. Shortly thereafter, the IDOL received photocopies of checks written to both claimants for the amount each was owed. The total amount paid to the claimants was \$9,615.38.

It All Adds Up: Successful Claims

- The claimants filed a claim for vacation time, which is considered a form of wages earned.
- The claimants provided ample documentation, indicating how many vacation days they had accrued, proving that they had not been paid for this time and specifying (via pay stubs) how much money they were owed for those days; and
- The employer acknowledged its error in not paying the claimants previously, and compensated them for their accrued vacation time.

Indiana's Wage & Hour Division Launches New Online Wage Claim Form

The IDOL's Wage & Hour Division has launched a new online service, which will allow Hoosiers to submit wage claim applications. The intention of the electronic submission of the Wage Claim Form is that it will speed up the initial application process, and likely decrease the amount of time it takes for a claimant to receive a response from the IDOL. Applicants will need to submit any supporting documentation they wish to be considered by mail, email or fax. Supporting documentation can include time sheets, past pay stubs and employer policies, as well as other types of documentation

Hoosier workers can file a wage claim with the IDOL when they do not receive payment for actual hours worked, or if they are not receiving at least minimum wage (\$7.25/hour) or overtime when entitled to by Indiana's Minimum

Wage Law. Wage claims may be filed online at www.in.gov/dol/wageclaimonline. There are other various scenarios which may allow a wage claim to be accepted by the IDOL. For questions about whether you are eligible to file a wage claim, please contact the IDOL's Wage & Hour Division at wagehour@dol.in.gov.

The IDOL accepts wage claims on a voluntary mediation basis, and filing a wage claim does not guarantee that the claim will result in compensation to the claimant. Additionally, Indiana law does not afford whistleblower protection to a claimant, should they be terminated as a result of filing a wage claim against a current employer. For more information on the wage claim process, answers to many frequently asked questions are available online at www.in.gov/dol/wagehour.htm.

You Asked, We Answered - Indiana Common Construction Wage



How do I know if a project is subject to the Common Construction Wage Act?

Projects are subject to the Common Construction Wage Act (CCW Act) if they are funded through State or Local funds and have an actual cost of \$150,000 or more. Examples of projects that may fall under the CCW Act may potentially include a new roof for a public school, the construction of a new county library or the demolition of a public building. For questions, please email ccw@dol.in.gov or phone (317) 232-2655.

Will I need to set Common Construction Wages for a project that receives federal funding?

Federally funded projects are generally not subject to the CCW Act, unless the federal granting agency consents in writing that Indiana law shall apply. Visit the IDOL website at www.in.gov/dol/wagehour.htm for more information.

How do I schedule a Common Construction Wage Hearing for my project?

To maximize resources, the Indiana Department of Labor has developed a "once a month" schedule for CCW projects. Hearings are held in each county in the State on a recurring day each month. While this schedule is not

required by law, it provides consistency to the process. To request a CCW Hearing, please contact the IDOL's Wage and Hour Division by email at ccw@dol.in.gov or phone (317) 232-2655.

Are Common Construction Wage Hearings open to the public?

Yes. CCW Hearings are public meetings and are subject to Indiana's Open Door law. It is the responsibility of the awarding agency or individual that convenes the meeting to post the open door notice.

How long does a Common Construction Wage Hearing usually last?

Each CCW Hearing is unique, therefore it is difficult to predict how long it will last. Internally, the Indiana Department of Labor schedules one hour for each hearing.

Wages were set on a project less than 12 months ago, but the scope of the project has been changed. Are we required to set new wages?

If the scope of the original project has substantially changed, IDOL policy states that a new hearing should be held and a wage scale should be adopted. More information about CCW is available at www.in.gov/dol/wagehour.htm.

Mock Mine Disaster Drill Conducted in Carlisle, Indiana

A real-time emergency response drill was conducted at Sunrise Coal Company's Carlisle Mine*, in Carlisle, Indiana on December 19, 2009. Mine management personnel were notified at 7 a.m. that day, and after arriving on-site, mine management personnel were briefed on a situation that occurred at the mine the previous night.

The mine disaster drill scenario was a fire in the mine which included seven unaccounted-for mine personnel. Mine management personnel contacted emergency personnel which included federal and state mine regulators, mine rescue teams, ambulance services, the county sheriffs department and vendors.



There were 62 individuals involved in the drill. Mine rescue teams were called out and all teams quickly responded to the mine site. The underground mine emergency drill was set up with as many real features as possible. Mock drills such as this one, as well as other training and practice opportunities, help all participants better prepare for emergency situations.

**The Indiana Bureau of Mines would like to thank Sunrise Coal Company for the use of their mine site as well as all Indiana underground mines who supported our endeavor with the help of their employees and mine rescue team members. The Bureau would also like to thank those who helped in the preparation of the drill, ensuring it ran smoothly. Special thanks to: Jay Toney, Vice President of Sunrise Coal-Carlisle Mine and Shad Montgomery, Safety Manager of Sunrise Coal. Others involved included: Greg Xanders, Mine Rescue Team Trainer of Peabody Coal Company; Julie Bedwell, of Peabody Midwest Training Center; Steve Kattenbreaker, Consultant for Peabody Coal Company; Danny Knott, Mine Rescue Trainer for Madisonville Community College of Madisonville, Kentucky; Rod Dilbeck, Mine Rescue Trainer for Gibson County Coal; Kevin Hills, Mine Rescue Trainer for Five Star Coal Company; Shawn Batty, MSHA Coal Mine Inspector and Steve Riley, Chief Mine Inspector for the Indiana Bureau of Mines. This mine emergency disaster scenario was designed by Greg Xanders, with the help of many others.*

IN Review to be Released March of 2010

The Indiana Department of Labor (IDOL) will soon release its annual *IN Review* publication. Publication of the magazine is slated for early March 2010. The magazine will provide an overview of Hoosier occupational safety and health in select Indiana industries.

The data used in *IN Review* is taken from research files provided by the federal Bureau of Labor Statistics (BLS) through the Survey of Occupational Injuries and Illnesses (SOII) and the Census of Fatal Occupational Injuries (CFOI). Additional information and case files from the

Indiana Occupational Safety and Health Administration (IOSHA) are also used to compile the report.

SOII and CFOI data used in the report is for calendar year 2008, which is the most current data available from the BLS. Data for occupational-related fatalities and injuries and illnesses for 2009 will be released in August and October 2010 respectively. The publication, in its entirety, will be available on the IDOL website at www.in.gov/dol, by clicking on "Publications" on the left navigation link.

Free Child Labor Trainings Offered

The Indiana Bureau of Child Labor, a division of the Indiana Department of Labor, is pleased to offer **free** training seminars covering the Indiana Child Labor laws. These training seminars last one hour and discuss all aspects of employing minors, from obtaining a work permit through termination of employment. Our intent is to keep teen workers safe as well as help employers comply with Indiana's Child Labor laws.

Several **free** teleconferenced trainings will be offered each month. Participants may call in from anywhere in the state. For more information or to enroll in a training, please visit www.in.gov/dol/childlabor.htm. Registration is required and will close 48 hours prior to the scheduled seminar.

Upcoming Child Labor Trainings

Date	Morning*	Afternoon*
2/4/2010	10-11 a.m.	1-2 p.m.
2/9/2010	10-11 a.m.	1-2 p.m.
3/4/2010	10-11 a.m.	1-2 p.m.
3/9/2010	10-11 a.m.	1-2 p.m.

www.in.gov/dol/childlabor.htm

*All times are scheduled in Eastern Time.

Recognizing Excellence

Recognizing Excellence spotlights Hoosier employers and their employees for their efforts in achieving status in either the Indiana Voluntary Protection Program (VPP) or Indiana Safety and Health Achievement Recognition Program (INSHARP). The Indiana Department of Labor congratulates the following employers and employees for their efforts to ensure Hoosier occupational safety and health. Additional information on INSHARP or VPP may be found online at www.in.gov/dol.

INSHARP

Recertified:

Farbest Foods (Huntingburg, IN)

Chemtrusion (Jeffersonville, IN)

Carter-Lee Building Components (Mooresville, IN)

VPP

None

Don't Forget! *The 2010 Indiana Safety and Health Conference & Expo.: March 1-3, 2010.*
Additional information and registration is available online at www.insafetyconf.com.

The Indiana Labor Insider is a bi-monthly newsletter of the Indiana Department of Labor. To subscribe or unsubscribe, please email INSafe at insafe@dol.in.gov.

