

# Indiana Labor Insider

September/October 2012

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

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

## Partnering for Hoosier Progress

**Recently,** the Indiana Department of Labor has been fortunate to have partnered with its sister state agencies in various endeavors. This month, we attended the Indiana Department of Transportation's State Rodeo finals, where its winter truck drivers got to participate in a skills contest that was state wide, culminating in recognizing its best drivers in the winter weather. Since I was offered a chance to maneuver one of those large salt trucks with a snow blade around a course, I can definitely vouch for the level of skill required to keep Hoosier roads clear in the winter!

We also participated with the Indiana Department of Homeland Security during their large scale exercise "Without Warning" at Muscatatuck Urban Training Complex this month. We provided, as part of the Incident Management Assistant Team, safety officers to assist in overall exercise safety for exercise personnel, and also practiced for the real event. When we were down in Henryville after the tornadoes, we were very successful in contributing to a safe deployment for our emergency responders.

As state wide chair of the [State Employees' Community Campaign](#), I've been working with the State Personnel Department in promoting charitable giving by our state employees. During last year's campaign, state employees donated more than 1.2 million dollars for more than 1,600 charitable causes. Many

state agencies have hosted their own fundraisers, in addition to offering payroll deduction for state employees.

As one of 28,000 state employees, I have appreciated the chance to serve along with so many other dedicated, smart and generous public servants. The governor's recent announcement of the retirement of ten mortgages on state facilities, paid off with bond reduction payments totaling \$147 million, is just another example of how we work to always be careful stewards of your taxpayer dollars. Our agency had three different teams honored at this event for earning the [Governor's Public Service Achievement Award](#) over the last eight years, thereby contributing to Indiana's fiscal health.



IDOL Commissioner Lori Torres drives a salt truck through a closed course during INDOT's Rodeo finals. (Photo taken by Jamie Gallagher)

To your health and wealth,

*Lori Torres*  
Commissioner

## IDOL Releases Preliminary Workplace Fatality Report

**The** preliminary workplace fatality report revealed that 122 Hoosiers were fatally injured while working in 2011. The report reflects a three percent increase in worker deaths in 2011 from those reported in 2010.

"This three percent increase in workplace fatalities is disappointing, but there is some good news. Despite increases in employment, the manufacturing and healthcare industries reflected decreases in fatality numbers. As Indiana's employment picture continues to improve, reducing workplace fatalities should continue to be on our radar," said Lori A. Torres, Commissioner of the Indiana Department of Labor. "The Department of Labor continues to focus on our highest priority—the safety of Hoosiers in the workplace, and we charge all employers and employees to rededicate their efforts to employee safety."

Some key findings in the report indicated that the agriculture and mining industries saw a drop of 33 percent in fatalities from 2011. The state's largest employment industry—manufacturing, also experienced a decrease in 2011. Healthcare and social services and educational services sectors combined saw only one death from work injuries in 2011, compared to 14 total fatalities in 2010.

Major challenges have been identified in the trucking industry. Truck transportation fatalities increased by 54 percent, from 13 in 2010 to 20 in 2011. Additionally, violent acts account for 17 deaths in 2011 and it is now the third largest fatality-causing event.

Visit [www.in.gov/dol/2439.htm](http://www.in.gov/dol/2439.htm) for the full 2011 Census of Fatal Occupational Injuries Preliminary report. A survey pertaining to non-fatal occupational injuries and illness for 2011 is scheduled for release on October 24, 2012.

# SAFETY ALERT: Portable Ladder Safety

**From** changing light bulbs and painting in those hard to reach locations, to hanging signage and removing items from storage, ladders are used in many industries and for many purposes. Ladders are extremely valuable pieces of equipment for performing work outside of normal arm's reach.

However, ladder safety is a big concern. According to the Bureau of Labor Statistics' (BLS) Census of Fatal Occupational Injuries (CFOI), **14 Hoosier workers were killed** between 2006 and 2010 in incidents where ladders were a contributing factor. Also, according to the BLS Survey of Occupational Injuries and Illnesses (SOII), between 2006 and 2010 **nearly 1,000 Hoosier workers suffered an injury** while using a ladder. Those injuries were severe enough to require the worker to spend one or more **days away from work** to recuperate. Nearly one-third of the non-fatal injuries were suffered by workers in Indiana's **construction industry**.

## Manufacturer's Recommendations

Because ladders are unique, employees must familiarize themselves with the ladder by reading the manufacturer's recommendations prior to using the equipment. Manufacturers provide information specific to that particular ladder. In addition to many other safety factors and considerations, it is important to become familiar with manufacturer's rated capacity for the specific ladder. The load rating must be capable of supporting the user as well as any materials or tools.

## Regular Ladder Inspections

A "competent person" must always inspect a ladder prior to its use. The competent person must be one who is knowledgeable in ladder safety. He or she must be wary of any paint or stickers on the ladder (with the exception of warning stickers), as they could "hide"

potential defects. If the ladder is damaged in any way, it must be taken out of service and tagged, "do not use," until a full repair has been made. Repairs must restore the ladder to a condition that meets its original design criteria before it may be placed back into service. If the ladder is unable to be fully repaired according to the original design criteria, it may no longer be used and should be discarded. For more information on a competent person, please visit federal OSHA's website at [www.osha.gov/SLTC/competentperson/index.html](http://www.osha.gov/SLTC/competentperson/index.html).

## Three-Point Contact

When using a ladder, employees should always maintain three-point contact (e.g. two hands and one foot or two feet and one hand). Therefore, workers climbing ladders must not be permitted to carry materials, supplies or other loads up or down a ladder. Only very small tools or objects may be placed into the employee's pocket or apron. The worker's body should be kept near the middle of the step. Whether climbing up or down, workers should always face the ladder.

## Electrical Hazards

When working near power lines, workers should always assume power lines are energized. Employers must contact the local utility company to discuss de-energizing and grounding or shielding the power lines. Extreme caution must always be exercised when ladders and other equipment are moved throughout the jobsite. Employees should avoid the use of metal ladders, or ladders with metallic components, near power lines or other exposed energized electrical equipment. Incidental contact with power lines and other electrical sources can be deadly.

## Caution: Slippery When Wet

Ladders must not be used on slippery surfaces unless they are secured or provided with slip-resistant feet to prevent accidental movement.



Slip-resistant feet must not be used as a substitute for the care in placing, lashing or holding a ladder upon slippery surfaces. Additionally, ladder rungs must be free of oil, grease and other liquids that may make the ladder slippery.

When ladders are used outdoors, it is extremely important to regularly monitor the weather. Depending on the season—rain, snow, ice, sleet, hail and wind are likely weather conditions of the ever-changing Hoosier climate. Outdoor weather conditions may vary from minute to minute. Ladder tip-over hazards are much greater during windy weather conditions.

### Online Ladder Safety Resources

For more information on ladder safety, please review the OSHA Portable Ladder Safety QuickCard available at [www.osha.gov/Publications/portable\\_ladder\\_qc.html](http://www.osha.gov/Publications/portable_ladder_qc.html). A sample ladder safety checklist is available online at [www.osha.gov/dte/grant\\_materials/fy06/46e0-ht10/stf\\_ladder\\_safety\\_checklist.pdf](http://www.osha.gov/dte/grant_materials/fy06/46e0-ht10/stf_ladder_safety_checklist.pdf). An OSHA Guide to Rules for Stairways and Ladders may also be found at [www.osha.gov/Publications/osha3124.pdf](http://www.osha.gov/Publications/osha3124.pdf). Many more worker safety and health publications may be accessed by visiting [www.osha.gov/pls/publications/publication.AthruZ?pType=AthruZ#L](http://www.osha.gov/pls/publications/publication.AthruZ?pType=AthruZ#L).

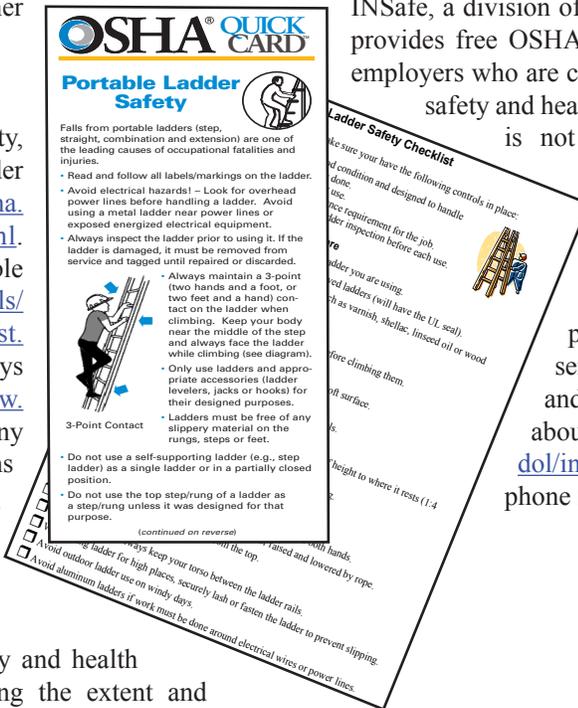
### Effective Worker Safety and Health

Effective management of worker safety and health protection is a decisive factor in reducing the extent and

severity of work-related injuries and illnesses as well as their related costs. An effective safety and health program forms the basis of exceptional worker protection and can save time and money—about \$4 for every dollar spent—and increase productivity and reduce worker injuries, illnesses and related workers' compensation costs.

### Free Onsite OSHA Consultation and Technical Assistance

INSafe, a division of the Indiana Department of Labor provides free OSHA consultation services to Hoosier employers who are committed to improving workplace safety and health. Employer-specific information is not shared with IOSHA, provided the employer agrees to correct all serious safety and health hazards identified by the INSafe Consultant. Each year, INSafe Safety and Health Consultants provide OSHA consultation services to more than 400 employers and their employees. To learn more about INSafe, please visit [www.in.gov/dol/insafe](http://www.in.gov/dol/insafe), email [insafe@dol.in.gov](mailto:insafe@dol.in.gov) or phone (317) 232-2688.



## It Happened Here: Tippecanoe County

**Background:** Between 2006 and 2010 in Indiana, 14 workers were fatally injured while using a ladder.

**Event:** On March 28, 2012, in Tippecanoe County, a 52-year-old employee was cleaning and removing debris from a drop ceiling. The employee was approximately five feet up a ten foot ladder. The employee fell to the floor. A fellow employee rushed to aid the victim and called for emergency services. The employee was transmitted to the hospital. The employee died approximately 30 days later.

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

- Conduct a comprehensive worksite assessment at the beginning of each job. Identify potential hazards and implement safeguards to protect employees from these hazards. Conduct daily inspections of the jobsite and all equipment.
- Ensure defective or broken equipment is removed from service until fully restored or permanently discarded.
- Ensure equipment is used in accordance with the

manufacturer's recommendations. For instance, do not use a self-supporting ladder (e.g. step ladder) as a single ladder or in a partially closed position.

- Conduct a daily jobsite briefing or "toolbox talk" to remind workers of the hazards associated with the jobsite, equipment, task, etc.
- Provide appropriate training to employees so they can recognize hazards associated with job and task.
- Ensure three-point contact is maintained while employees perform work from a ladder.
- Provide employees with the appropriate personal protective equipment (PPE). Instruct employees on the PPE's use and storage. Ensure workers wear all PPE.
- Foster a culture of workplace safety and health. Employers must hold themselves accountable for their employees' understanding and following all written safety and health policies, rules, procedures and regulations.

# Special Government Employees Gain Insight, Help Minimize Financial Impact to IDOL

Contributed by Beth Gonzalez, Indiana VPP Team Leader

**Since** December 2007, the Indiana Department of Labor (IDOL) has been using Special Government Employees (SGEs) on Voluntary Protection Program (VPP) evaluations. The SGE program is a tool to allow industry employees to work alongside IDOL staff during VPP onsite evaluations. SGEs are dedicated and experienced safety and health professionals from current certified Indiana VPP sites.

The IDOL, SGE and Hoosier taxpayers benefit greatly from this program. Rather than using compliance staff from the Indiana Occupational Safety and Health Administration (IOSHA), SGEs are used to supplement the VPP evaluation team. This helps best ensure IOSHA compliance staff is available to conduct enforcement inspections. SGEs also benefit from this innovative program by observing how other sites implement the VPP elements and observing other sites' best practices which they can take back to their own workplace to help improve worker safety and health at their respective facility.

Only qualified volunteers from VPP sites are eligible to participate in the SGE program. These volunteers must be approved by federal OSHA and their participation is funded solely by their own companies. After submitting an application and completing the required training, these volunteers are sworn in as SGEs and are approved to assist as VPP onsite evaluation team members.

Recently, Indiana VPP site, [NIBCO](http://www.NIBCO.com), hosted a federal OSHA SGE training session at their facility in Goshen, Indiana. NIBCO has a total of four SGEs of which one is from their site in Goshen. Learn more information about NIBCO online at [www.NIBCO.com](http://www.NIBCO.com).

The number of SGEs used on Indiana VPP evaluations has increased over the last few years. Between 2009 and 2011, more



Indiana VPP site, NIBCO, hosted a Special Government Employee (SGE) training in August 2012. Participants from left to right included Dave Templeton, Brian LeRoy, John Wirth, Dustin Maughan, Art Farmer, OSHA Region V representative Nancy Mugavero, Jammie Stephens, Kurt Hudspeth, Kimm Wheeler, Chris Nickle and Indiana VPP Team Leader Beth Gonzalez.

than 70 Indiana SGEs have been used during these evaluations. In 2012, the IDOL will have used at least 33 SGEs on VPP evaluations. The IDOL estimates that each SGE who assists on a VPP evaluation or recertification visit yields a cost savings of approximately \$2,500 for the agency. In 2012 alone, the IDOL will save an estimated \$75,000.

Currently, fewer than 60 Hoosier employers have achieved VPP status. VPP sites range in size from less than 20 employees to more than 6,000. A listing of current Indiana VPP sites is available online by visiting the IDOL website online at [www.in.gov/dol/2474.htm](http://www.in.gov/dol/2474.htm). Additional information about the SGE Program is available online by visiting federal OSHA's website at [www.osha.gov/dcsp/vpp/sge.html](http://www.osha.gov/dcsp/vpp/sge.html). Learn more information about Indiana VPP at [www.in.gov/dol/vpp.htm](http://www.in.gov/dol/vpp.htm). Hoosier workplaces interested in pursuing VPP certification may contact Indiana VPP Manager Mike Gaskill by email, at [migaskill@dol.in.gov](mailto:migaskill@dol.in.gov) or by phone at (260) 373-2860.

## Save the Date!

### March 11-13, 2013

Indiana Convention Center  
Downtown Indianapolis

[www.INSafetyconf.com](http://www.INSafetyconf.com)



## ROADMAP TO SAFETY

2013 INDIANA SAFETY AND  
HEALTH CONFERENCE & EXPO



## You Asked, We Answered - Indiana VPP

### Who is eligible to participate in the Voluntary Protection Program (VPP)?

All fixed workplaces covered by the Indiana Occupational Safety and Health Administration (IOSHA) are eligible to participate in VPP. Worksites interested in VPP must develop and implement effective safety and health management systems and work towards becoming an industry leader in occupational safety and health. Currently, VPP certification is not available for temporary worksites such as construction projects or sites.



### What are the qualifications for VPP?

To qualify for VPP, applicants must have an effective safety and health management system in place that meets rigorous performance-based criteria. In addition, applicants must meet all relevant OSHA standards. The worksite's injury and illness rates must also be below the national average for the employer's respective industry.

### What types of companies participate in VPP?

Currently, there are fewer than 60 participants in a variety of industries from pharmaceuticals and snack foods to wood office furniture manufacturers and the production and processing of seed corn. A listing of the current sites that have VPP certification may be found online at [www.in.gov/dol/2474.htm](http://www.in.gov/dol/2474.htm).

### After a company achieves certification, how often is the site reviewed?

The Indiana VPP team periodically reevaluates the participant to confirm its continuing qualification for the program. Onsite evaluations occur every three to five years for Star and 18 to 24 months for Merit sites. Each VPP site is also required to submit an annual report.

For more information, contact VPP Manager Mike Gaskill by phone at (260) 373-2860 or by email at [migaskill@dol.in.gov](mailto:migaskill@dol.in.gov). A packet of information about VPP is available online at [www.in.gov/dol/files/vpp\\_kit.pdf](http://www.in.gov/dol/files/vpp_kit.pdf).

## Are Those Payroll Deductions Legal?

Contributed by Debbie Fouts, Wage and Hour Investigator

# Complaints

about illegal payroll deductions are one of the most common wage complaints received by the IDOL, Wage & Hour Division and can result in a costly learning experience for an employer if a complaint results in litigation.

Employers make a variety of payroll deductions, most of which are authorized by federal law or state and federal revenue regulations. However, beyond the payroll deductions authorized by federal or state law, Indiana wage and hour law limits the circumstances under which an employer may make deductions from an employee's wages.

[Indiana Code 22-2-6-2](#) sets out the requirements for legal payroll deductions and involves a two-step test. First, deduction authorizations must be: (1) in writing, (2) signed by the employee, (3) revocable upon written notice, and (4) agreed to in writing by the employer. Once the requirements of the first step are satisfied, the employer may deduct for any of 13 categories of reasons identified in the statute. The statute authorizes deductions for health and life insurance premiums, charitable contributions, savings bonds, union dues, stock option plans, etc.

Indiana law does not authorize payroll deductions for loss or damage to an employer's property, cash drawer shortages, employee billing errors or employee uniforms. These are some of the more common illegal deductions investigated by the IDOL.



When an employee or former employee files a wage complaint with the IDOL, it is usually advantageous for the parties to take advantage of the IDOL's wage dispute resolution process. The process is efficient and effective, but more importantly involves almost no transaction costs for the parties. In contrast, litigation can

be very expensive. Indiana law provides that a wage claimant who files a civil lawsuit to recover wages may be entitled to recover actual damages (wages), plus up to two times the actual damages as liquidated damages, plus reasonable attorney fees.

For example, a former employee filed a \$504 wage claim with the IDOL. The former employer refused to cooperate with the IDOL Wage Investigator who was trying to resolve the dispute. The former employee hired a law firm and filed a civil lawsuit to recover the wages. By the time the case was over, the Indiana Court of Appeals remanded the case back to the trial court, ordering the former employer to pay the original \$504 in wages, plus an additional \$7,832.17 in liquidated damages, costs and attorney fees, for a total of \$8,336.17.

For questions about illegal deductions, review IDOL's Frequently Asked Questions at [www.in.gov/dol/2345.htm](http://www.in.gov/dol/2345.htm), email [customerservice@dol.in.gov](mailto:customerservice@dol.in.gov) or call (317) 232-2655.

# SPOTLIGHTING BEST PRACTICES

## “Contractor Safety”

**Nucor Sheet Mill**, located in Crawfordsville, Indiana, employs more than 700 workers. Nucor manufactures coiled strip products by melting a steel scrap mix and rolling the finished strip into large steel coils of various alloy and gauge. To learn more about Nucor Steel, please visit [www.nucor.com/](http://www.nucor.com/).

Contributed by John Purdy, Director of Safety for Nucor Steel Indiana

**It's** a normal occurrence to have hundreds of contractor personnel onsite for an outage at Nucor Sheet Mill in Crawfordsville, Indiana. Contractor safety is a critical element of the Voluntary Protection Program (VPP). Since October 2011, [Nucor](http://www.nucor.com/) has worked very diligently to improve its contractor safety program efforts.

Nucor's safety team members came up with the idea to serve as liaisons between Nucor and the contractors' onsite supervision. The goal of Nucor's safety team has been to increase communication during outages that involve major projects. Responsibilities of the safety team included attendance during specific shifts to observe and advise contractor supervision when they witness instances that deviate from the defined protocols, policies, procedures and standards.

Nucor safety team members were onsite 24-hours a day, seven days a week during the company's spring hot side outage. Team members wore orange flame retardant (FR) jackets for identification purposes. Sure, Nucor's safety team members took a ribbing from the contractors and crews regarding the wearing of these orange jackets at first, but later the jackets became a token of pride. Wearing the jackets during the outage helped ensure worker safety and health had "extra visibility." Since that time, Nucor has had several special projects and cold mill down-turns where internal area safety team members have contributed to worker safety and health efforts. The Indiana Occupational Safety and Health Administration's (IOSHA) VPP representatives have visited Nucor's site during these activities and have spoken with the teammates and contractors about the advantages of this increased safety presence.

The Nucor Steel Indiana, Crawfordsville, safety department team members are also participating in the [Steel Manufacturers Association](http://www.steel.org/) (SMA) "Fatality Prevention Initiative Involving Mobile Equipment." Specifically, the subcommittee Nucor is involved with is looking at safety practices and benchmarking opportunities involving mobile equipment outside the steel industry. To date, Nucor has benchmarked in policy and procedure with several



Contractor employees engage in work at Nucor's DRI off load building. (Submitted photo)



Nucor melt cast safety committee member, Ryan Bush, speaks with a Continental Construction safety supervisor concerning the permit being used for the confined space entry. (Submitted photo)

facilities including non-ferrous metal and aggregate processing sites in central Indiana. All of this information will be compiled into a written guideline and DVD designed to be shared with members of the SMA in the steel industry and those outside the steel industry upon request.

# Hoosier Company “SOARS” Into Worker Safety and Health

Contributed by Lori A. Torres, Commissioner of Labor

**Wonder** how you would get your small business started on a program of enhanced safety and health for your employees? Does it seem a bit overwhelming? You may think that your 25-person company is too small, you don't have enough staff, everyone is too busy and it costs too much [or fill in the blank with any other excuse you like].

The motivation may be altruistic (“we really don't want to see our employees get hurt”), but there is nothing wrong with also admitting that the cost of workers' compensation premiums is a key. Most small Indiana companies will likely not be self insured, so focusing on the amount of premiums that you could save if you improved the rate of injuries for your staff is one good outcome.

**Obermeyer Agri Group, Inc.** in Greensburg, Indiana is a company with 32 employees. They build grain systems on individual farms, co-ops and other businesses. Last year, Nancy Means and her management made the decision to “jump” into worker safety and health, partly as a way to control the increases they were experiencing in workers' compensation premiums.

Obermeyer elected to use a prepackaged product, available for \$300 on the Internet. The product Obermeyer purchased provides a full year's worth of weekly 15-minute safety topics and includes a handout for each lesson. Each employee has his or her own binder into which the new lesson is placed for the session. Every Thursday at 7 a.m., Means spends 15 minutes addressing a different safety topic. Some stock topics had to be modified to suit the particular needs of Obermeyer. Since Obermeyer installs grain bins, grain entrapment was a specialty topic that Purdue University had information on, so they used the Purdue video to address that hazard. But standard topics like bloodborne pathogens, confined space and safety harnesses

to prevent falls from a higher elevation were all included in the package.

New employees go through training to catch up on the prior topics. For the last 38 weeks, Obermeyer has been incident-free. That performance exceeds the record from the year before. Employees now tender their own ideas and are more aware and involved in workplace safety. Obermeyer uses the acronym “SOAR.” SOAR stands for Stop, Observe, Act and Report. Employees have stickers for their hard hats and T-shirts to remind them of this action. Fun ideas like Zero™ candy bars accompany talks on zero accidents. Sunblock was provided to employees when the discussion turned to personal protective equipment (PPE). While Obermeyer turned this into its own program, it all started with an inexpensive purchase and commitment from management to devote small amounts of time to improve workplace safety.

In addition to the products chosen by Obermeyer, INSafe, a division of the Indiana Department of Labor, offers free help to get started, refine or elevate your workplace safety and health program. You may reach INSafe by phone at (317) 232-2688 or by email at [insafe@dol.in.gov](mailto:insafe@dol.in.gov).

Whether you are a manufacturer, a real estate agency, a city or county office, bank, assisted living facility or construction company, make 2012 the year you decide to improve your workplace safety and health program and culture at your business. As you develop, evaluate or refine your own program, remember Obermeyer Agri Group, Inc. as the catalyst for your decision to soar into safety.

The Indiana Department of Labor congratulates Obermeyer for its efforts to improve the health and safety of all of its workers in the field or in the shop! For more information about Obermeyer Agri Group, please visit their website online at [www.obermeyeragrigrp.com/](http://www.obermeyeragrigrp.com/).



# Consultant's Corner: Who is A "Competent Person?"

Contributed by Ebony Poindexter, INSafe Safety Consultant



A competent person must review an excavation/trench prior to allowing employees to perform work in the respective area. The contractor did not verify location of the buried natural gas utility line prior to breaking the line with a company excavator. A competent person must ensure safe measures have been taken to avoid contact with utility lines. (OSHA case file photo)

**While** there are no specific standards regarding competent persons, many occupational safety and health standards frequently reference the term. In the construction industry, a competent person is defined in [29 CFR 1926.32\(f\)](#) as an individual who is capable of identifying existing and predictable hazards in the surroundings or working conditions which are potentially unsanitary, hazardous or dangerous to employees. Some workplace safety and health standards add additional and more specific requirements which must be met by the competent person.

## **Beware!**

Quite simply, attending an OSHA 10-hour training course doesn't necessarily mean the person who attended the training may be deemed "competent." Whether it's scaffolding, trenching or ladders, I often find employers have designated a competent person without really investigating whether or not they really are competent in the subject matter.

A competent person can be the lead individual, often a foreman or the jobsite superintendent. OSHA requires the employer's designated competent person to have extensive

work experience and safety training in the area in which he or she has been deemed competent. A competent person must also have authority to take prompt corrective measures to eliminate worker exposure to safety and health hazards.

For instance, a competent person must visually inspect a ladder for any defects prior to its use on the jobsite. If defects are found, the competent person must have the authority necessary to remove the ladder from service. Upon placing the ladder back into service, the competent person must assess the ladder to ensure it has been restored to meet the ladder's original design specifications. Another example of when a competent person is required is during trenching operations. Trenches must be inspected by a competent person prior to entry and after any hazard-increasing event such as a rainstorm, vibrations or excessive surcharge loads.

Competent persons are expected to be on the jobsite whenever work is in progress. The competent person is also responsible for conducting frequent and regular inspections of the jobsite, which should be outlined in the employer's safety and health program. The competent person is also responsible for providing training to new workers on and retraining existing employees on the haz.

## **How does a competent person differ from a qualified person?**

A competent person should not be confused with a qualified person. As defined in [29 CFR 1926.32\(m\)](#), a qualified person is a person who, by possession of a recognized degree, certificate or professional standing or by extensive knowledge, training and experience, that has successfully demonstrated his or her ability to solve or resolve problems relating to the subject matter, the work or the project. The position of a qualified person may have more technical expertise in the designated subject matter. A qualified person can be a competent person; however this person must meet the definition of a competent person which also includes hazard recognition skills as well as safety and health training. Also, a competent person can be a qualified person due to extensive knowledge, experience and training.

## **Remember...Worksite Safety and Health is Everyone's Responsibility**

It's important to remember that worker safety and health is not a job that one person can tackle by him or herself. Rather, workplace safety and health is an effort that must be pursued by all workers. Everyone must be held accountable for following safety policies, procedures and rules. For more information about how to develop and implement a workplace safety and health program, review OSHA's Small Business Handbook at [www.osha.gov/Publications/smallbusiness/small-business.html?cm\\_sp=ExternalLink-\\_Federal\\_-\\_DOL](http://www.osha.gov/Publications/smallbusiness/small-business.html?cm_sp=ExternalLink-_Federal_-_DOL).

# Stop and Think Before You Click Send...

Contributed by Rick J. Ruble, Deputy Commissioner and General Counsel

*This article below is intended for general information and does not constitute legal advice. Nothing herein should be considered a legal opinion. The reader is encouraged to consult with legal counsel to determine how laws, rules, regulations or information contained or referenced in this communication may apply to the reader's specific circumstances.*

**Stop.** Think about the email messages you send as well as those status updates you post on social media websites such as Twitter® or Facebook®. Simply put, if you email, blog, tweet or participate in any other form of social media, beware! If you would be embarrassed if any of those messages were to be read by your boss, or your spouse, or your mother or to a jury inside a courtroom, then don't send them. You could be risking your job.

A survey of employers conducted by the [ePolicy Institute](#) in Walhaven, Connecticut found that 25 percent of employers surveyed have fired employees for inappropriate use of email. Thirteen percent of employers reported actually having to go to court and battle email related lawsuits. Frequently, these lawsuits allege sexual harassment or racial discrimination and the offending communication involves off-color jokes or sexual content. According to the ePolicy Institute survey, more than half of employers surveyed report that they now monitor employee's email traffic to some extent.

In September 2000, **Dow Chemical Company** fired 24 employees and disciplined 235 more at the company's Freeport, Texas facility. Another 50 workers at Dow Chemical Company's Detroit, Michigan location were terminated and 200 others were disciplined as well—all for inappropriate use of email.

Just this month an **Ohio EPA** worker inadvertently sent an email to his supervisor that contained graphic, fictional stories describing

child pornography. That employee remains on the job, pending the outcome of a criminal investigation.

**Virgin Atlantic Airlines** fired 13 flight crew members for posting insulting messages about passengers on Facebook®. A Chicago **Transportation Security Administration** officer at O'Hare Airport was fired for posting racist statements on his personal Facebook® page. Last year a state government official became "no longer employed" after suggesting in a Twitter® posting that police "use live ammunition" on protesters at the Wisconsin state capitol building. Also last year, a high school principal composed an email message poking fun at a teenage former student who landed a job at a Hooters restaurant. The principal probably intended to send the message to a personal friend, but the message was inadvertently sent to a state government executive. Some of these stories involve lapses in good judgment, and others rise to the level of criminal conduct. Either way, these messages or postings can damage careers, an individual's reputation and create a public relations nightmare.

With the development of email and proliferation of social media, business communication has changed considerably. Where we used to take the time to compose a thoughtful business letter or schedule a face-to-face or phone meeting to communicate with our colleagues or other business associates, today we are more likely to shoot off a quick email message, sometimes when we are busy or frustrated or angry and often without considering how our message might be interpreted—or misinterpreted. Occasionally we even send a message to an unintended recipient. You can't always control where your message lands or who sees it. It is out there, potentially forever. So before you hit the "send" button and launch that email message or social media post into cyberspace, think about how it will appear if you see it published in the news next week. Is it worth risking your career?



## Upcoming Training Opportunities

**Child Labor Law Teleconferences:** There are many opportunities for you to participate in our training, which we offer via teleconference so you don't lose productive time in travel and can keep your employees onsite. These training opportunities are provided free of charge, though registration is required. To register for an upcoming teleconference, email [childlabor@dol.in.gov](mailto:childlabor@dol.in.gov). Please include your name, your email address and the date and time of the desired training. If enrolling a group of people, please list the name of each attendee.

Date	Sponsor	Class*	Location	Time
November 1, 2012	IDOL Bureau of Child Labor	Child Labor Laws	Teleconference	10:00 a.m. EST
November 13, 2012	IDOL Bureau of Child Labor	Child Labor Laws	Teleconference	10:00 a.m. EST
December 6, 2012	IDOL Bureau of Child Labor	Child Labor Laws	Teleconference	10:00 a.m. EST
December 11, 2012	IDOL Bureau of Child Labor	Child Labor Laws	Teleconference	10:00 a.m. EST

**Special Note about Mid-America OSHA Education Center sponsored training:** The Indiana Department of Labor has signed a strategic occupational safety and health alliance with the Mid-America OSHA Education Center. For more information about Mid-America OSHA Education Center, please visit [www.midamericaosha.org/](http://www.midamericaosha.org/). Course fees are established by Mid-America OSHA Education Center and are available on their website. For additional questions about courses or registration, please contact Lacey Cole by email at [lacey@ovabc.org](mailto:lacey@ovabc.org).

## 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 and VPP may be found online at [www.in.gov/dol](http://www.in.gov/dol).

### **INSHARP**

**New:** None

**Recertified:** Acument Global Technologies (Rochester, IN)  
Blue River Services, Inc. (Salem, IN)  
Olon Industries (Washington, IN)



### **VPP**

**New:** Cintas Corporation Location 370 (Frankfort, IN)

**Recertified:** None



The **Indiana Labor Insider** is a free electronic bi-monthly newsletter of the Indiana Department of Labor's INSafe Division. INSafe provides free on-site OSHA consultation, resources and training to Indiana small and high hazard employers. For questions or comments regarding content or to subscribe or unsubscribe, please e-mail INSafe at [insafe@dol.in.gov](mailto:insafe@dol.in.gov).

