



Oil Patch Quarterly

Exclusive Program Managed by Sisk & Company

First Quarter 2009

INSURANCE NOTES

Beware of Care, Custody, or Control Exclusions

What does Care, Custody or Control mean to you as a business owner doing work in the oil patch? The answer is frequently confusing and the worse time to find out the answer is when you are facing a very expensive claim or loss.

Coverage disputes often arise in connection with General Liability policy exclusions that remove coverage for property in the "care, custody, or control" of the insured. What does that mean? For example, a roustabout crew is installing an amine unit for a lease operator and damages it. Damage to that property is generally not covered as it was in the care, custody, or control of the insured.

Likewise, a lease operator is responsible under the 2003 IADC drilling contract for loss or damage to the drilling rig and its associated equipment resulting from an unsound location.

Cost Containment Certification Can Lower Your Workers' Compensation Premium

If you have a safety program in place and its producing results, the MSEA urges you to take advantage of the State of Colorado's Cost Containment Certification (CCC) program to get a discount on your workers' compensation premium.

Certification requires that employers have a six-step formal safety program in place for at least one year and document its effectiveness. You must obtain your certificate **prior to** policy renewal, and applications must be received by the 20th of the month to qualify for review the following month.

For MSEA members that have the six steps in place, they also need to keep records documenting they complied with the requirements throughout the year. (If you cannot provide a signed and dated record showing that something was done, then it did not happen.) The records you need to keep include:

- Documented safety orientation for all new employees;
- Records of safety training, conducted at least quarterly (Monthly, weekly or daily safety awareness training is highly recommended as a way to promote better safety awareness and to develop a good safety culture for your company.);
- Accident investigation reports for all reported incidents with corrective measures identified;
- Documentation showing that all employees know you have designated medical providers and an accident reporting procedure;
- Documentation showing the company has a formal return-to-work program; and
- Signed and dated records of any activity you state you will do in your safety policy or in the designation of the safety coordinator.

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Care, Custody or Control*

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LESSONS LEARNED

When is an employee assigned work?

The employer arranged for an employee picnic that included a truck rodeo. The event was going to be held in the employer's parking lot and while setting up the course, an employee was injured when he rode his personal motorcycle across the lot.

This employee had not volunteered to help set up the event, but instead one of his supervisors had directed him to help with the set up activities.

The injured worker was not doing his normal job duties and was not working his normal hours, but the claim was found to be compensable because the supervisor directed the employee to set up the course. Further, it was determined that the employer benefited from this event. This supported the compensability determination.

Lesson learned: Usually employment does not include "voluntary" recreational activities regardless if the employer promoted, sponsored or supported the event. However, if a supervisor directs an employee to participate in any part of the event then the event is not consider voluntary and any injury could be compensable.

Conducting a Training Needs Analysis

By Jim Ericson, The Training Toolbox, Inc., 303-683-8609

It is essential that all employees be trained on all aspects of their jobs including health and safety. Investing in effective health and safety training will increase skills, knowledge, productivity and morale as well as reduce workplace incidents.

The first step in any training program is to identify your employees' training needs. A training needs analysis is performed by identifying the difference between the skills and knowledge of an individual or group and the skills and knowledge they need to perform their jobs.

Part of any training needs analysis is to look at the applicable OSHA regulations to determine training requirements. Information regarding training requirements can be found in OSHA Publication 2254, "Training Requirements in OSHA Standards and Training Guidelines". Another resource to help determine training needs is OSHA's listing of the most frequently cited standards. Most frequently cited standards for the following SIC codes can be accessed on the OSHA website at the following address:

(<http://www.osha.gov/SLTC/oilgaswelldrilling/standards.html>)

1311 - Crude petroleum and natural gas

1381 - Drilling oil and gas wells

1382 - Oil and gas field exploration services

1389 - Oil and gas field services, not elsewhere classified

The OSHA standards are a good start, but they don't address all safety training needs of your employees. It is important that you look at the specific work you do and the equipment you use and determine what knowledge and skills your employees need to do the job correctly.

Checking with industry trade groups such as API, IADC and others, as well as reviewing the operating manuals provided by the manufacturers are also good ways to determine what your employees need to know to do a job correctly (safely). The bottom line, training needs are determine by answering the following two questions for each job or task:

- What skills and knowledge do your employees currently have?
- What skills and knowledge are required to competently perform their job safely?

For assistance in performing a safety training need analysis or with your other safety training needs, contact the author of this article or contact Dan Klimek at 303-831-7100.

Cost Containment - Continued from page 1

For businesses currently holding a Cost Containment Certificate, there are a four points you need to keep in mind.

1. You will need to renew your certificate at some time. The State will send you a renewal notice, about 3 months in advance of the expiration date. Look for this notice and act on it.
2. The renewal notice will be mailed to the person whose name was on the application / renewal form from the last submission. If there has been a change in the organization, consider who would have signed the application and look for mail addressed to that person. (It is your responsibility to send updated contact information to the Cost Containment Advisor.)
3. Many companies have lost their certification for failing to respond to the renewal notice because the mail either went to a person no longer responsible for the program or someone who left the company.
4. If you fail to respond to the initial renewal notice mailing, a second reminder will be mailed. If you do not reply before the due date,

your company will receive a notice that you have lost your certification and the premium discount. The letter will ask you if you want to appeal the decision. It is always easier to renew your cost containment then to appeal for reinstatement. If you wish to become certified again, you will be required to start over like you did when you first applied for certification.

Sisk and Company is scheduling Cost Containment Certification workshops across the State. Many of you have likely already received notices of the first workshop that will be held in Denver on March 27th. Since the attendees will receive personalized support at these workshops the attendance is limited. Look for the seminar notices and sign up early. Check www.gomsea.org for details of upcoming Cost Containment Workshops and the other seminars offered by Sisk and the MSEA.

If you would like individual assistance with your cost containment program, remember that as an MSEA member, we provide assistance to you. Contact Dan Klimek to discuss your specific questions. Dan can be reached at 303-831-7100 or email dklimek@tjsisk.com.

OSHA NEWS

MSEA and OSHA Renew Alliance

By Megan Meagher, OSHA Outreach and Compliance Specialist

MSEA and OSHA plan to continue working cooperatively to improve safety and health in the oil and gas industry by renewing their alliance agreement. The alliance agreement was first implemented in 2005 and was renewed for two years in 2007.

The goals of the alliance include providing opportunities for safety training and education; developing mechanisms for effective communication between OSHA and the industry; and promoting safety and health within the oil and gas industry.

Some highlights and accomplishments from the last two year alliance agreement include:

- providing fire and explosion case study seminars on Western Slope and DJ Basin;
- participating in MSEA quarterly meetings to provide OSHA updates and answer questions;
- networking with local oil and gas companies to establish working relationships;
- regularly contributing to the MSEA newsletter;
- jointly supporting and participating in an oil and gas safety seminar at Red Rocks Community College

If you have suggestions about ways to improve the effectiveness of the alliance, please contact Dan Klimek. We welcome your input!



Care, Custody or Control - Continued from page 1

Again, the care, custody, or control exclusion generally leaves this exposure uncovered as the equipment at the well location is usually considered to be in the care, custody, or control of the operator.

The first step in managing risk is identifying it. At Sisk & Co., we have been managing oil & gas risk for 29 years. We can help you identify your exposure and also create alternatives to handle this risk. Various forms of property insurance, as well as control of well coverage, can be endorsed to provide coverage for property of others for which you are legally responsible.

If you have questions, or would like to review your current insurance policies to determine coverage and exclusions, please contact us to discuss this issue in more detail. We can provide you with the information you need to understand your coverage and risk. After all, the time to find out what is covered by insurance is before the loss happens. Call Jeff Parent at 303-831-7100 to discuss Care, Custody or Control issues as well as other policy coverage and exclusion issues.

NOTES FROM DAN

When I talk to MSEA member companies, I usually ask how things are going. I am sure each of you reading this knows the answer to that question better than I do. All of us know the activity in the oil patch is slowing down and I am sure all of you also are looking forward to when "things pick up". So what can be done to help prepare your company for the upswing in the industry?

During this time we have an excellent opportunity to improve on the safety and procedural processes that are hard to update when a business is running at full speed. Early this year, Sisk and the MSEA rolled out a new safety resource for the oil and gas industry. That resource is www.petrodocs.com - with a tagline of "Providing Oil and Gas Safety Solutions" petrodocs has nearly 5000 pages of articles, presentations, reprints, and editable safety programs. This resource can help you develop and improve your safety and related procedures. Now is the time to work on your business.

In addition, we are encouraging all MSEA members to step up and work toward earning Colorado Cost Containment certification. Earning this certification will also earn a 5% discount on your Workers' Compensation insurance premium. (See article on the front page of this issue of the Oil Patch Quarterly.)

If you have questions about safety programs or other loss control programs, contact us, we are here to help.

Contact Information

The Mountain States Energy Alliance (MSEA) is a not for profit association dedicated to helping members create a safer work environment in the oil and gas industry. The MSEA offers an exclusive workers' compensation program underwritten by Pinnacol Assurance for its members. MSEA members receive a 4% discount on their workers' compensation premium and may also qualify for a dividend payment based on favorable loss experience of the group. To see if your company qualifies for the program or for more information about the MSEA program contact one of the following.

- Mike Eastop
- Dave Tacha
- Jeff Parent
- Tom Sisk

For benefit information contact:
Todd Heiserman
Dutch Ross

The following websites provide excellent insurance and safety information:

- www.tjsisk.com
- www.gomsea.org
- www.petrodocs.com

If you have questions or comments about this newsletter, contact:

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