



Oil Patch Quarterly

Exclusive Program Managed by Sisk & Company

First Quarter 2012

INSURANCE NOTES

MSEA Association Membership

MSEA members are required by the association guidelines and Pinnacol to implement the 6 steps required for Colorado Cost Containment. In addition, each member company is also required to attend one safety management seminar offered / approved by Pinnacol or the MSEA.

These two requirements are in place because history has proven that businesses that comply tend to have better safety records. These better records help companies obtain lower experience modification ratings (e-mods), lower Total Recordable Incident Rates (TRIR) and in turn lower workers' compensation rates.

During the next few months, we will be contacting each MSEA member and inquiring about cost containment status and safety training. Our goal is to help MSEA members be the safest companies in the oil patch and help them have the best, most complete insurance coverage to help control risk.

OSHA to Update Hazard Communication Standard

The government recently finished its review of the rule that would align the OSHA regulation with the United Nations' Globally Harmonized System of Classification and Labeling of Chemicals.

OSHA's Hazard Communication Standard requires chemical manufacturers and importers to evaluate the hazards of the chemicals they produce or import, and prepare labels and material safety data sheets to convey the hazards and associated protective measures to users of the chemicals. All employers with hazardous chemicals in their workplaces are required to have a hazard communication program, including labels on containers, material safety data sheets (MSDS), and training for employees. Within the United States, there are other Federal agencies that also have requirements for classification and labeling of chemicals at different stages of the chemical's life / use cycle.

The diverse and sometimes conflicting national and international requirements can create confusion among those who seek to use hazard information. Labels and safety data sheets may include symbols and hazard statements that are unfamiliar to readers. Containers may be labeled with such a large volume of information that important statements are not easily recognized. In addition, small businesses may have particular difficulty in coping with the complexities and costs involved.

As a result of this situation, and in recognition of the extensive international trade in chemicals, there has been a long-standing effort to harmonize these requirements and develop a system that can be used around the world. In 2003, the United Nations adopted the Globally Harmonized System of Classification and Labeling of Chemicals (GHS). Countries are now adopting the GHS into their national regulatory systems. OSHA started working on this in September 2009 when it published the notice of rule making. After following the rule making process, things have progressed to the point where the new rules will be issued. As with all new rules, OSHA will publish a date when compliance is required; we will keep you posted on the status of this rule.



LESSONS LEARNED

Post offer physical evaluation

Pay attention to the sequence

The prospective employee (claimant) sustained an injury while participating in a post offer physical evaluation program. The MSEA member notified Pinnacol of the event and Pinnacol denied the claim, since the claimant was not an employee at the time of the alleged injury.

The case went to hearing and the Administrative Law Judge (ALJ) found the claimant was not an employee under the Workers' Compensation Act. It was determined that for purposes of the Workers' Compensation Act, an **employee** is any individual "in the service of the state" or "under any appointment or contract of hire, express or implied."

Based on the statute, injuries sustained during post offer employment tests are generally not compensable unless a contract of hire is in place. This means that when these physical evaluations are conducted in the hiring process, makes all the difference in compensability.

In this case, completion of the pre-employment physical testing was required for hire; claimant did not complete the test. In addition,

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Work Comp – Lessons Learned*

Work Comp – Lessons Learned – *continued from column at left*

other steps in the hiring process had not been completed. These other steps were:

- 1) **complete a security check,**
- 2) **meet with a supervisor, and**
- 3) **file documents with the personnel department,**

none of which the claimant had completed. Therefore, substantial evidence supported the finding that no contract of hire existed at the time of injury, and the claim was properly denied and dismissed for benefits.

Lesson learned

In order to avoid a compensable work related claim as a result of a post offer physical evaluation, the employer should outline the steps that will be followed to hire a new employee. This outline should include a sequence of the steps. Once you are at the point of thinking this job candidate is the right person, you extend a conditional offer of employment. The first steps would be to complete the drug screens, functional capacities evaluation, etc. If all these items are acceptable, then continue and end with meeting supervisor, completing new hire paperwork and start new employee training.

Communication and Performance

Management consultants will frequently state that 60% of all management problems are the result of poor communication. When employees and managers fail to understand each other, everything suffers - service, safety, productivity and morale. It is impossible for employees to operate at high performance levels if they do not understand what is expected.

When we give instructions to an employee, we typically provide the highlights of the job. We expect the employee to do all the small steps that are required, but are very difficult to list. We communicate a message and don't have the luxury of seeing with our own eyes that the right information is implemented in a timely fashion.

It's critical to understand that communication is a two-way street, and if information is passed down several channels, it is likely that the message changes as well as the importance of following specific steps or procedures.

To help your communication, try this.

- Tell; pass along the information
- Paraphrase; have the other person respond in their own words explaining what they are to do
- Answer back with acknowledgement or correction

These simple steps are one of the basic considerations for helping improve work quality and safety on the job.

Work-Related Deaths in Colorado in 2010 Show Driving Safety a Major Concern

The Colorado Department of Public Health and Environment recently released the 2010 statistics of Colorado work-related deaths. These statistics show there were 80 work-related deaths in Colorado in 2010, the same number as occurred in 2009. There were approximately 3 deaths in Colorado for every 100,000 workers in the state's workforce in 2010.

The data identify **transportation fatalities**, primarily highway crashes, as the major cause of work-related deaths. The top 3 causes of work-related deaths in Colorado in 2010 were as follows:

- 27 transportation-related deaths, accounting for 34% of the state's 80 occupational fatalities during 2010. Of Colorado's 27 transportation-related occupational deaths in 2010, 17 were highway fatalities compared to 24 the previous year. The remaining 10 transportation-related fatalities in 2010 were either non-highway or another type of transportation-related death. Highway accidents accounted for 21% of all occupational fatalities in 2010, slightly down from 29% in 2009. Three workers died in non-collision highway accidents.
- 21 deaths from assaults and violent acts in 2010, compared to 18 deaths in 2009.
- 15 deaths from contact with objects and equipment, compared to 9 deaths in 2009.

These statistics are consistent with the experience of MSEA clients. Over the past several years, vehicle accidents have been the leading cause of serious injury and frequently the highest cost accidents. These vehicle accidents do not need to result in death to have a tremendous emotional and financial cost to the company and employees.

A current area that gets a lot of attention anytime there is a vehicle accident is distracted driving. In 2009, distracted drivers contributed to more than 5,400 traffic fatalities, accounting for 16% of all traffic deaths that year. OSHA responded last year by partnering with the Department of Transportation to launch an initiative to combat this deadly practice.

The current director of OSHA stated when OSHA receives a credible complaint that an employer requires texting while driving or organizes work so that texting is a practical necessity, they will investigate and where necessary issue citations and penalties to end this practice.

Every company should have a policy that addresses fleet and driving safety. It is important that this policy address cell phones, texting and practices that promote safe vehicle operation. Sample programs and policies are available on PetroDocs – www.petrodocs.com

OSHA NEWS

OSHA Training for Oil and Gas

Efforts have been underway for nearly two years to develop OSHA authorized training for the oil and gas industry. Led by Joan Smith and her staff at Red Rocks Community College, the steering committee undertaking this effort consists of representatives from industry, government and educational entities. Recognizing that effective orientation programs already exist; significant efforts have been made to prevent duplication of these existing programs.

The proposed training program, currently known as

Tier II, focuses on major hazards found within the on-shore industry. It is designed to build on existing orientation programs, but includes more information on regulations.

Within the next few months, it is anticipated that OSHA's Directorate of Training and Education will begin its review of the proposed Tier II training course. In addition, planning for a Tier III course focusing on leadership skills for the industry is already underway.

If you or your company would be interested in supporting these projects, please contact Chuck Beck with Red Rocks Community College at chuck.beck@rcc.edu.

FMCSA Offers New CSA BASIC Factsheets

The Federal Motor Carrier Safety Administration (FMCSA) through the Compliance, Safety, Accountability (CSA) program has just released a new Behavior Analysis and Safety Improvement Category (BASIC) factsheet series on the CSA Outreach Website. These factsheets are targeted for companies with DOT registration as well as drivers holding a CDL. If you want to learn more about the agency's seven BASICs, the Federal Motor Carrier Safety Regulations (FMCSRs) upon which they are based, and how to ensure compliance with the regulations, you need to review these sheets.

The sheets are available on PetroDocs (www.petrodocs.com) under the CSA 2010 heading. We recommend that if you are involved with the DOT, you read all the new factsheets to gain a more comprehensive understanding of the CSA program and, more specifically, the BASICs (Unsafe Driving, Fatigued Driving (Hours-of-Service), Driver Fitness, Controlled Substances/Alcohol, Vehicle Maintenance, Cargo-Related, and Crash Indicator).

Call Dan Klimek at 303-831-7100 if you have questions.

NOTES FROM DAN

In the past few months I have worked with several operators and roustabout companies reviewing procedures such as Lockout/Tagout and Hot Work. It is important to remember that everyone working on location must discuss the specific Lockout/Tagout and Hot Work Procedures that will be followed. If not, events like the one below can likely happen.

Tanks and piping are being installed or modified. Work is taking place over several days or weeks. In the process of completing the work, produced water or other petroleum liquids are added to tanks, but the parties involved forget or ignore that the vent lines are connected together. The work continues and at some point we end up with a welder performing work and a fire and / or explosion occurs.

One recent event that fit the scenario above resulted in property damage that totaled over \$300,000. Fortunately no one was injured or killed. However, I have other case studies where the situation is very similar and employees were killed.

It is important that you train your employees in the hazards and properties of flammable liquids and vapors and follow correct Lockout/Tagout Procedures & Hot Work Procedures. If you would like information about these case studies or sample procedures, visit PetroDocs.com or contact me; Dan Klimek – 303-831-7100.

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 Pinnacle 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
Tom Sisk

For benefit information contact:
Todd Heiserman

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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