



Supreme Court Sides With Workers

The U.S. Supreme Court has ruled unanimously that the Fair Labor Standards Act requires employers to compensate workers for the time they spend walking to and from the production floor after donning and before doffing required safety gear. The court also said the time spent waiting to doff the required safety gear is compensable under the FLSA. However, the court ruled that federal law excludes from the FLSA's scope the time employees spend waiting to don the first piece of gear that marks the beginning of the workday.

The court issued the rulings in two consolidated cases that raised questions about whether the time employees spend walking between the changing area and the production area is compensable under the FLSA, as amended by the by the Portal-to-Portal Act.

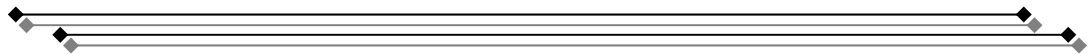
One of the cases also challenged whether the time employees spend waiting to put on the protective gear is compensable under the FLSA. In one case, employees at Barber Foods, Inc., sought compensation for walking and waiting time associated with the donning and doffing of required protective gear at a poultry processing plant in Maine.

"Because donning and doffing gear that is 'integral and indispensable' to employees' work is a 'principal activity' under the statute, the continuous workday rule mandates that the time the [employees] spend walking to and from the production floor after donning and before doffing, as well as the time spent waiting to doff, are not affected by the Portal-to-Portal Act, and are instead covered by the FLSA."

The court rejected the employees' argument that they should be compensated for the time they spend waiting to don the first piece of safety gear that begins their workday. In the other case, workers at IBP, Inc., were seeking compensation for time spent donning and doffing required protective gear and walking from the locker rooms to the production floor of a meat processing facility in Washington.

The Supreme Court ruled in favor of the workers, affirming a 9th Circuit Court of Appeals ruling. "The time the employees spend walking between changing and production areas is compensable under the FLSA," the Supreme Court ruled.

Link to Supreme Court Ruling: <http://www.supremecourtus.gov/opinions/05pdf/03-1238.pdf>



US Launches Pandemic Flu Website

The U.S. government has launched a website with information on pandemic flu and avian influenza. The website, [Pandemicflu.gov](http://pandemicflu.gov), includes the federal government's plan for pandemic influenza.

An influenza pandemic occurs when a new influenza virus emerges for which there is little or no immunity in the human population. One strain of avian flu virus, H5N1, has caused 64 deaths in Asia, according to the World Health Organization.

During the week of November 7th, officials and health experts from more than a 100 countries met at the World Health Organization in Geneva to identify key components of a global action plan to control avian influenza in animals and simultaneously limit the threat of a human influenza pandemic.

Meanwhile, vaccines to protect humans against the H5N1 virus are under development, according to the Centers for Disease Control and Protection. The CDC says antiviral medications, oseltamavir and zanamavir, would probably work to treat flu caused by the H5N1 virus, but additional studies still need to be done to prove their effectiveness.

The agency says the current risk to Americans from the H5N1 bird flu outbreak in Asia is low.

U.S. Government's Pandemic Flu Site – <http://pandemicflu.gov>

Avian Flu Information from the World Health Organization – http://www.who.int/csr/disease/avian_influenza/en/index.html

2005 Dates:

January:

Plan Your Safety Training Now!
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February:

Child Passenger Safety Week

March:

Poison Prevention Week
Workplace Eye Safety Month
Save Your Vision Month

April:

Sports Eye Safety Month
Intl Building Safety Week
Work Zone Aware. Week
Playground Safety Week

May:

Clean Air Month
Melanoma Awareness Month
Electrical Safety Month
National EMS Week
Poison Prevention Week

June:

National Safety Month

July:

EYE INJURY PREV. MONTH

August:

Prepare Your Winter Safety Training!

September:

Farm Safety/Health Week

October:

Nat. Fire Prevention Week
Drive Safely Work Week
Radon Action Week

November:

Take advantage of the weather and do your classroom training!

December:

"3D Month" - National Drunk & Drugged Driving Prevention Month



New, Safer Chemicals on the Horizon

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Rutgers, the State University of New Jersey, says its researchers have discovered a new class of environmentally friendly chemicals with the potential to reduce the use of more hazardous, petroleum-based solvents in industrial plants and laboratories.

The chemicals are known as room-temperature ionic liquids, or RTILs, and, according to Rutgers, can perform many of the same functions as organic, petroleum-based solvents but will not burn or evaporate into the atmosphere. That means RTILs would likely reduce the risk of accidents and would not contribute to air pollution. The findings were reported in the American Chemical Society's *Journal of Physical Chemistry B*. Apparently, one barrier to widespread adoption of these chemicals has been that they have been significantly thicker than common solvents such as acetone, benzene, or alcohol. But the scientists say they have solved this problem.



Are Employers Responsible For Terrorist Chemical Education Under The HAZWOPER Standard?

In the event of a terrorist incident in which chemical, biological, radiological, or nuclear (CBRN) materials are released, are there are changes in an employer's responsibilities to protect employees under OSHA's hazardous waste operations and emergency response (HAZWOPER) regulations?

The simple answer is "no." From the OSHA/HAZWOPER perspective, a terrorist CBRN incident is no different than any incident wherein hazardous materials are released and must be cleaned up. However, OSHA's position is not meant to suggest that employers should conclude their response training for a CBRN event with an assessment that all HAZWOPER conditions can be met. Also, an employer may need to comply with requirements imposed by other federal agencies with authority under the National Response Plan (NRP).

Terrorist events are not considered foreseeable emergencies that OSHA expects an employer to reasonably anticipate in the workplace. Therefore, OSHA's specific authority in the immediate aftermath of a terrorist CBRN incident has not been spelled out in federal law and regulation. OSHA says that its role at this time would be guided by comprehensive national policies contained in the Federal Response Plan, the NRP, and other legal authorities. Under the NRP, enforcement authority would be in the hands of a lead federal agency, which may or may not be OSHA. While the protections contained in HAZWOPER would almost certainly be appropriate, this does not mean they would be required at this time.

OSHA explains: "While [HAZWOPER] provides important information on protecting workers, OSHA's task in conveying these protections through employer actions may most effectively be served following a terrorist incident through technical assistance rather than enforcement activity."

OSHA says that when actions under the NPR are terminated by the lead agency, or when the response period evolves into a cleanup period and there remain known exposures to hazardous materials, "OSHA can and will then take any action, including enforcement of [HAZWOPER]."

Above and beyond HAZWOPER, OSHA recommends that employers work with their local emergency planning committees if they wish to develop an emergency response plan to safeguard employers from terrorist incidents. Exercises that will help all involved in understanding their capabilities and limitations are also recommended.

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Safety Resource Center

Next Month:

Safe Walking on Ice – Is it Really Possible?

Have you ever heard of "Ice Cleats"?

In next month's safety newsletter!

It's Good To Know:

We're frequently asked to recommend certain products or manufacturers based on a companies need for PPE.

We will recommend a product type such as a "cut resistant glove" or a "steel toed safety shoe". However, we don't recommend manufacturers mainly due to liability concerns. We also want to encourage companies to research products and decide which product(s) best fit their work.

Jody, Is It True?

Based on the popularity of "Myth Busters", the Discovery Channel's TV show, we've started this new section.

I recently received an email question and was asked if a common safety statement was true. **Is a sharp knife a safe knife?**

Yes. Cuts and lacerations often happen when a knife slips off of the material being cut. Sharp knives don't slip and cut better!

Have a question? Email us!