

# ON-THE-JOB

Q U A R T E R L Y N E W S L E T T E R

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ACHIEVING SAFETY IN UTAH'S WORKPLACES AND FAIRNESS IN EMPLOYMENT AND HOUSING



Commissioner  
Sherrie Hayashi

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# Safety in the Workplace Week

By: **Senator Karen Mayne**



SCR (*Senate Concurrent Resolution*) 9 passed in the 2013 Legislature and is a Labor of Love. It was my pleasure to sponsor and pass legislation to celebrate the last week of June as "Safety in the Workplace Week". With my partners WCF, UTA, Labor Commission, UDOT, AGC, AFL-CIO, and many good companies and government agencies, we planned a giant statewide awareness campaign.

Monday June 24 featured the Lt. Governor at an active job site. Tuesday we were driving heavy equipment at the Operating Engineers Safety Training Area. Wednesday we were welcomed at the Rocky Mountain Occupational and Health Center at the University of Utah. Thursday found us at a road construction site. And Friday we were welcomed to the AFL CIO Convention to pass out safety awards to employees who practice good safety standards.

A thank you to the Workers Compensation Fund of Utah for their more than generous financial gift to make this event happen. The Workers Compensation Fund has taken the lead in the State of Utah to promote the culture of safety for businesses and their trusted employees.

**CELEBRATE WITH US!!**

# Protecting Workers from Summer Heat Stress and Illness

Source: OSHA Heat Stress Emergency Preparedness Guide

As an employer, it is your responsibility to ensure a safe and healthful workplace for your employees. Fortunately, there is a lot you can do to protect workers from heat hazards.

Acclimatize workers by exposing them to work in a hot environment for progressively longer periods. NIOSH (1986) suggests that workers who have had previous experience in jobs where heat levels are high enough to produce heat stress may acclimatize with a regimen of 50% exposure on day one, 60% on day two, 80% on day three, and 100% on day four. For new workers who will be similarly exposed, the regimen should be 20% on day one, with a 20% increase in exposure each additional day.

Replace fluids by providing cool (50°-60°F) water or any cool liquid (except alcoholic beverages) to workers and encourage them to drink small amounts frequently, e.g., one cup every 20 minutes. Ample supplies of liquids should be placed close to the work area. Although some commercial replacement drinks contain salt, this is not necessary for acclimatized individuals because most people add enough salt to their summer diets.

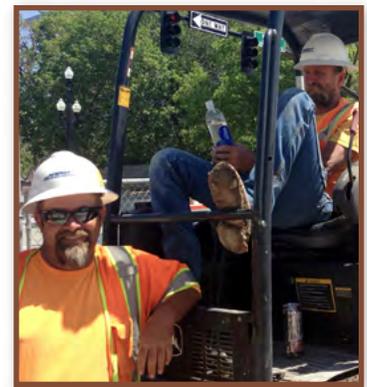
Reduce the physical demands by reducing physical exertion such as excessive lifting, climbing, or digging with heavy objects. Spread the work over more individuals; use relief workers or assign extra workers. Provide external pacing to minimize overexertion.

Provide recovery areas such as air-conditioned enclosures and rooms and provide intermittent rest periods with water breaks.

Reschedule hot jobs for the cooler part of the day, and routine maintenance and repair work in hot areas should be scheduled for the cooler seasons of the year.

## What kind of heat disorders and health effects are possible and how should they be treated?

Heat Stroke is the most serious heat related disorder and occurs when the body's temperature regulation fails and body temperature rises to critical levels. The condition is caused by a combination of highly variable factors, and its occurrence is difficult to predict. Heat stroke is a medical emergency that may result in death. The primary signs and symptoms of heat stroke are confusion; irrational



Even though heat related deaths are preventable, hundreds of people die from extreme heat and heat related illnesses each year.

behavior; loss of consciousness; convulsions; a lack of sweating (usually); hot, dry skin; and an abnormally high body temperature. The elevated metabolic temperatures caused by a combination of work load and environmental heat, both of which contribute to heat stroke, are also highly variable and difficult to predict.

If a worker shows signs of possible heat stroke, professional medical treatment should be obtained immediately. The worker should be placed in a shady, cool area and the outer clothing should be removed. The worker's skin should be wetted and air movement around the worker should be increased to improve evaporative cooling until professional methods of cooling are initiated and the seriousness of the condition can be assessed. Fluids should be replaced as soon as possible. The medical outcome of an episode of heat stroke depends on the victim's physical fitness and the timing and effectiveness of first aid treatment.

Regardless of the worker's protests, no employee suspected of being ill from heat stroke should be sent home or left unattended unless a physician has specifically approved such an order.

**Heat Exhaustion** signs and symptoms are headache, nausea, vertigo, weakness, thirst, and giddiness. Fortunately, this condition responds readily to prompt treatment. Heat exhaustion should not be dismissed lightly. Fainting or heat collapse is often associated with heat exhaustion. In heat collapse, the brain does not receive enough oxygen because blood pools in the extremities. As a result, the exposed individual may lose consciousness. This reaction is similar to that of heat exhaustion and does not affect the body's heat balance. However, the onset of heat collapse is rapid and unpredictable and can be dangerous especially if workers are operating machinery or controlling an operation that should not be left unattended; moreover, the victim may be injured when he or she faints. Also, the signs and symptoms seen in heat exhaustion are similar to those of heat stroke, a medical emergency. Workers

suffering from heat exhaustion should be removed from the hot environment and given fluid replacement. They should also be encouraged to get adequate rest and when possible ice packs should be applied.

**Heat Cramps** are usually caused by performing hard physical labor in a hot environment. These cramps have been attributed to an electrolyte imbalance caused by sweating. Cramps appear to be caused by the lack of water replenishment. Because sweat is a hypotonic solution ( $\pm 0.3\%$  NaCl), excess salt can build up in the body if the water lost through sweating is not replaced. Thirst cannot be relied on as a guide to the need for water; instead, water must be taken every 15 to 20 minutes in hot environments. Under extreme conditions, such as working for 6 to 8 hours in heavy protective gear, a loss of sodium may occur. Recent studies have shown that drinking commercially available carbohydrate-electrolyte replacement liquids is effective in minimizing physiological disturbances during recovery.

**Heat Rashes** are the most common problem in hot work environments where the skin is persistently wetted by un-evaporated sweat. Prickly heat is manifested as red papules and usually appears in areas where the clothing is restrictive. As sweating increases, these papules give rise to a prickling sensation. Heat rash papules may become infected if they are not treated. In most cases, heat rashes will disappear when the affected individual returns to a cool environment.

**Heat Fatigue** is often caused by a lack of acclimatization. A program of acclimatization and training for work in hot environments is advisable. The signs and symptoms of heat fatigue include impaired performance of skilled manual, mental, or vigilance jobs. There is no treatment for heat fatigue except to remove the heat stress before a more serious heat-related condition develops.

# Accident and Injury Reporting Requirements

Utah employers are required to notify Utah OSHA of serious injuries or illnesses that occur in the workplace.

Federal regulations state that employers only need to notify OSHA if there is a fatality or the in-patient hospitalization of three or more employees as a result of a work-related incident.

However, Utah has different requirements. In the State of Utah, employers are required to notify Utah OSHA at **(801) 530-6901** within 8 hours of occurrence of all fatalities, disabling, significant, and serious injuries or illnesses to workers.

## Frequently Asked Questions

### Where can I find this requirement?

The reporting requirements are located in R614-1-5(C)(5) of the Utah Administrative Code. The Utah code is available at [www.le.utah.gov](http://www.le.utah.gov). The requirements are shown on the poster titled Workplace Safety and Health in the State of Utah, which must be posted in the workplace. This poster (*and all required posters*) can be downloaded at: [www.laborcommission.utah.gov/divisions/UOSH/RequiredPosters.html](http://www.laborcommission.utah.gov/divisions/UOSH/RequiredPosters.html)

### How do I know if an incident would qualify as disabling or serious injury?

“Disabling and serious” includes, but is not limited to, any injury or illness resulting in immediate admittance to the hospital, permanent or temporary impairment where part of the body is made functionally useless or is substantially reduced in efficiency and which would require treatment by a medical doctor. This includes amputations, fractures, deep cuts, severe burns, electric shocks, sight impairment, loss of consciousness and concussions. Also included are illnesses that could shorten life or significantly reduce physical or mental efficiency inhibiting the normal function of a part of the body, such as cancer, silicosis, asbestosis, hearing impairment and visual impairment.

### Do I have to report a fatality caused by a heart attack at work?

**Yes,** Utah OSHA will decide whether to investigate the incident, depending on the circumstances of the heart attack.

### What if I don't learn about an incident right away?

If you do not learn of a reportable incident at the time it occurs and the incident would otherwise be reportable, you must make the report within 8 hours of the time the incident is reported to you or to any of your agents or employees.



Employers are required to notify Utah OSHA within 8 hours of a serious injury or illness.

# Industrial Accidents Contribution to Workplace Safety | Utah Workers

By: **Ron Dressler**, *Industrial Accidents Division Director*



Although having workers compensation insurance may not contribute directly to worker safety, the system provides a 'backstop' or certain assurances to both employers and employees. Since the Industrial Accidents Division is tasked with overseeing the Utah workers' compensation program, we strive to do our best to support the system. To that end we are always seeking ways to improve our programs, engage in education, and work closely with all of our partners.

## Workers' Compcheck

An important tool the Division has had in place for several years now is our Workers' Compcheck. Located as a link on our website, this tool allows anyone, employees or employers, to verify workers' compensation coverage policy information on known companies. This gives employees assurance that they are covered and assists employers in answering coverage questions.

## Safety Programs

Though workers' compensation insurance policies provide benefits to injured workers after the fact, many insurance carriers who write these policies offer safety services. For example, many carriers provide consulting, newsletters, videos, publications, and other vital tools intended to support a safer working environment. Employers can and should take advantage of these services.

These are just two ways in which the Industrial Accidents Division is striving to maintain a high level of assistance and service, and contribute to workplace safety.

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The Division conducts a workers' compensation conference at least semi-annually. This year the conference will be on Friday, Sept. 27 at the Sheraton Hotel in downtown Salt Lake. This conference is a great opportunity to get updates on Division and Commission programs and initiatives, as well as continue your education on vital medical issues. Of particular interest this year are two breakout sessions, one by our Division detailing how we assist in the claim process and another by the Utah Occupational Safety and Health Division highlighting their consultation program.

## Wage Claim Unit Receives Governor's Award for Excellence



On May 9, 2013, the Wage Claim Unit of the Labor Commission's Utah Antidiscrimination and Labor Division received the Governor's Award for Excellence for Innovation and Efficiency during a ceremony at the State Capitol. The Governor and the Lt. Governor presented the award to members of the Unit. The following was read to highlight the achievements of the Unit.

The Wage Claim Unit completed the "*Operational Excellence*" project, learning sound principles of process improvement and translating that knowledge to specific actions directly aimed at streamlining and making more efficient the Wage Claim Unit processes, and eliminating wasteful and redundant activities.

As a result of completing this project, the Wage Claim Unit made substantial gains in reducing the age of cases and the number of cases closed, setting a record for the number of wage claim files closed in a year, closing 1,444 cases in 2012.

- ▶ **It reduced the average length of time a wage claim is open by 35 percent, from 426 days to 277 days.**
- ▶ **The time to process a claim at intake went from fifty-six days to one day.**
- ▶ **The time between the hearing and the issuance of an order went from two hundred forty days to less than thirty days.**
- ▶ **The waiting time for a hearing was reduced from eight months to two and a half months. Hearings are now scheduled within approximately two weeks from the time they are placed in line for a hearing, but they schedule hearings two months in advance so they can correct any problems with return mail without having to reschedule the hearing.**
- ▶ **The time between the issuance of a final order and the entry of a final judgment was improved from an average of three months to one week after the appeal time has run out.**
- ▶ **The average time for investigations went from three hundred and thirty-three days to two hundred and two days.**

Please join with us in congratulating the Wage Claim Unit for a job well done.



### Public Employee Salute to Gina Spjut

Mountain America Credit Union sponsors a Public employee Salute each week. Below is the text of the broadcast on local radio stations:

Now it's time for the Public Employee Salute sponsored by Mountain America Credit Union and the Utah Public Employee's Association. This week's honoree is Gina Spjut.

Gina works for the Industrial Accidents Division of the Labor Commission.

Gina is often the contact person for both injured workers and the workers' compensation insurance carriers. Gina is not only accurate and consistent in the information she gives, but she also goes the extra mile by making sure that all parties have the documentation they need for successful claim processing. Gina was also instrumental in creating and maintaining a list of attorneys that help injured workers with their legal claims if legal representation is needed.

**Thank you, Gina, for your service to the State of Utah.**

## UOSH Announces Two New Emphasis Programs: Trenching & Excavating & Confined Spaces Initiatives

The *Trenching and Excavating Emphasis Initiative* will concentrate on those workplaces that require employees to enter and work within trenches and excavations. Employees who work in trenches and excavations with inadequate and/or no cave-in protection face increased risk of exposure to serious physical injuries and/or death. Employees also face other hazards that could be associated with working in trenches and excavations, such as water accumulation and loose materials falling in and onto them. While working in trenches, confinement itself may pose entrapment hazards. Work in trenches may keep employees closer to hazards than they would be otherwise, such as working in close proximity of operating mechanical excavating equipment, as well as hazards of worksites that require employees to work in and/or around traffic.

The Bureau of Labor Statistics Reported for 2011 a total of 84 deaths due to workers being “Struck, caught, or crushed in collapsing structure, equipment, or material...” with 44 being classified “*Excavation or trenching cave-in...*”

The *Confined Spaces Emphasis Initiative* will concentrate on those workplaces that contain spaces considered “Confined”, due to their limited or restricted means for entry or exit and not designed for continuous employee occupancy; such as underground vaults, tanks, storage bins, manholes, pits, silos, process vessels, storm drains, and pipelines/sewers. Confined spaces also have the potential to contain a hazardous atmosphere; contain a material that has the potential to engulf an entrant; has walls that converge inward or floors that slope downward and taper into a smaller area which could trap or asphyxiate an entrant. They also potentially contain other recognized safety or health hazard, such as unguarded machinery, exposed live wires, or may cause heat stress. The Bureau of Labor Statistics reported for 2011 a total of 23 deaths due to “*inhalation in enclosed, restricted, or confined space...*”

With these two emphasis initiatives, Utah OSHA is taking proactive steps to decrease accidents resulting from work around these hazards. These initiatives, which started in January 2013, mean that UOSH personnel will stop at sites where trenching or excavation work is being performed, and where utility or telecommunications confined space entry is taking place. At these sites a comprehensive inspection will be conducted to ensure safe procedures and practices are in use, and to enforce safety procedures according to 29 CFR 1926 Standards and the Utah Administrative Code. The Division is committed to the safety and health of Utah’s workers.



Courtesy of Deseret News,  
Stuart Johnson

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For more information,  
visit the Utah OSHA website at  
[www.uosh.utah.gov](http://www.uosh.utah.gov) or contact  
our office at 801.530.6901

# Appellate Decisions

This quarter, and for 2013 so far, the Utah Court of Appeals has issued four decisions involving Labor Commission cases. The full text of these decisions is available at [www.utcourts.gov/opinions/](http://www.utcourts.gov/opinions/). The decisions issued by the court this quarter dealt with the Utah Workers' Compensation Act.

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**Migliaccio v. Labor Commission and Salt Lake County** (2013 UT App. 51; issued February 28, 2013). Mr. Migliaccio claimed benefits for insomnia and injuries to his neck, wrists, elbow and shoulder that he allegedly sustained while using a pneumatic impact wrench during his employment with Salt Lake County. The ALJ (Administrative Law Judge) decided to refer the medical aspects of the case to an impartial medical panel over Mr. Migliaccio's objection. The Commission agreed with the referral to the medical panel and ultimately affirmed the ALJ's decision to deny benefits to Mr. Migliaccio based on the panel's finding of no causal connection between the accident and Mr. Migliaccio's conditions. Mr. Migliaccio appealed the Commission's decision to the Court of Appeals, arguing that it was error to refer the medical aspects of his claim to a medical panel based on a lack of directly conflicting evidence. The court upheld the Commission's decision, explaining that Salt Lake County had adequately raised and disputed the issue of medical causation such that referral to a medical panel was appropriate. The court also held that there was substantial evidence to support the Commission's dismissal of Mr. Migliaccio's claim.

**Wallace v. Labor Commission** (Case No. 20130189; issued May 6, 2013). Ms. Wallace claimed benefits for a head injury that occurred at work. The Commission agreed with the ALJ's decision to award benefits to Ms. Wallace based on what an impartial medical panel could verify was medically caused by the work accident. Ms. Wallace sought additional benefits and asked for an extension to submit her request for reconsideration of the Commission's decision. The Commission granted Ms. Wallace an extension until January 22, 2013, to file her request for reconsideration, but the Commission did not receive her request until January 23, 2013. The Commission therefore dismissed Ms. Wallace's request for reconsideration. The court reviewed the record and upheld the Commission's decision after concluding that Ms. Wallace's request for reconsideration was untimely.

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## Appellate Decisions continued

**Clawson v. Labor Commission, Star Foundry and Machine, and Workers Compensation Fund** (2013 UT App. 123; issued May 16, 2013). Mr. Clawson claimed permanent total disability compensation for silicosis he developed while working for Star Foundry for more than 30 years. Mr. Clawson was also a heavy smoker for most of that time. The ALJ referred the issue of medical causation to an impartial medical panel, and the panel concluded Mr. Clawson suffered from “simple silicosis,” which was not associated with clinically significant pulmonary problems unless complicated by infection, due to his employment with Star Foundry. The panel added that Mr. Clawson’s symptoms were attributable to his history of heavy smoking, not simple silicosis.

A preponderance of the medical evidence, including the medical panel’s report, showed Mr. Clawson should not return to work in a foundry, where he had worked his entire adult life. The ALJ entered a preliminary award of permanent total disability compensation to Mr. Clawson and Star Foundry and WCF appealed the award to the Commission’s Appeals Board. In a split decision, the Appeals Board reversed the ALJ’s award of benefits after concluding that Mr. Clawson’s simple silicosis was not a significant impairment and he had not shown that his silicosis was the direct cause of his disability because his symptoms were due to his years of heavy smoking.

In a dissenting opinion, one member of the Appeals Board opined that the diagnosis of silicosis was a significant impairment. On appeal, the court agreed with the dissent and explained that because Mr. Clawson could no longer work in the only place he had been employed for his adult life, such a limitation was significant and the result of his occupational silicosis. However, the court recognized that Mr. Clawson may not be entitled to permanent total disability compensation when considering other statutory

elements that the Appeals Board had not addressed. The court therefore set aside the Appeals Board’s decision and remanded the matter for further consideration of all such elements.

**Employers’ Reinsurance Fund (ERF) v. Labor Commission, Frank Koch, Mine Safety Appliance Co., and Pacific Employers Insurance Co.** (2013 UT App. 139; issued May 31, 2013). Mr. Koch filed a claim in 2008 seeking permanent total disability compensation stemming from a work accident in December 1991. The ERF sought to have Mr. Koch’s claim dismissed based on the six-year statute of limitations for bringing claims under the Utah Workers’ Compensation Act. The ALJ denied the ERF’s motion and entered a preliminary award of permanent total disability compensation. On review, the Commission affirmed the ALJ’s decision and remanded the matter for second-step proceedings specific to permanent total disability cases. Before the matter could be completed, however, the ERF appealed the Commission’s decision to the Court of Appeals. The court entered a sua sponte order for summary dismissal of ERF’s motion for lack of jurisdiction. The court explained that because Mr. Koch’s claim had been remanded to the ALJ to complete the adjudicative process on second-step proceedings, there was not yet a final agency action eligible for the court’s review.

# Rules Corner

Pursuant to authority granted by the Utah Legislature, the Commission has recently adopted or is considering the following substantive rules. If you have questions or concerns about any of these rules, please call the Labor Commission at 801-530-6953.

**Rule 612-200-1**

Industrial Accidents

**Acceptance/Denial of a Claim.** This section will be replaced by and recodified as **Reporting and Investigating Injuries.**

This is part of a reorganization to provide a rational structure for the Industrial Accident rules. The new rule addresses the first report of injury requirements for employers and insurers, adds clarity to the role of the insurer within the EDI claim reporting process, and provides for penalties against an insurer or self-insured employer in the event of noncompliance with claim reporting requirements.

*Effective July 5, 2013*
**Rule 600-2-1**

Administration

**Business Hours.** This update provides that the business hours for the Parowan office will be Monday – Thursday, 8:00 a.m. to 5:00 p.m

*Effective July 5, 2013*
**Rule 600-2-1**

Administration

**Business Hours.** This proposed update will provide that the filing deadline for official documents filed electronically with the Commission will be extended to midnight on the date the documents are due.

*Effective Fall 2013*
**Rule 602-2-1**

 Adjudication  
Division

**Pleadings and Discovery.** This proposed update will provide that parties will respond in a timely and appropriate manner to discovery requests, notwithstanding the mandatory disclosures and exchanges required elsewhere in the rule. The proposed update will also require a party to state in the pretrial disclosure form whether the party anticipates the hearing on the matter to take more than two hours.

*Effective Fall 2013*
**Utah Labor Commission**

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