



NCDOL

N.C. Department of Labor

Cherie Berry, Commissioner

Labor

LEDGER

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Falls Lead Work-Related Fatal Incidents in Tar Heel State

By Dolores Quesenberry, Communications Director

Falls caused the largest number of work-related fatal incidents in the Tar Heel state in 2019, based on preliminary information released recently by the N.C. Department of Labor. Falls accounted for 17 of the 53 fatal incidents that fell within the NCDOL Occupational Safety and Health (OSH) Division’s jurisdictional authority. Struck-by incidents followed closely, accounting for 15 of the 53 fatal workplace deaths last year.

“It is critical that every employer ensures that new hires and existing employees are properly trained to do the jobs they are assigned to do and that they are provided with the proper safety equipment to do those jobs,” Labor Commissioner Cherie Berry said. “NCDOL has the tools to assist employers with proper training and safety equipment. Our goal and everyone’s goal should be that your employees go home safely to their families and loved ones at the end of the day. No goal is more important than that.”

Not all work-related fatal incidents fall within the jurisdictional authority of the OSH Division and therefore are not included in the OSH Division’s count. Traffic accidents, for instance, account for most work-related deaths each year and fall outside the division’s jurisdiction. Traffic accidents, along with homicides and suicides, are inspected by law enforcement.

The OSH Division fatality count excludes fatalities investigated by federal OSHA, sole proprietorships and other exemptions in which the department does not have the authority to investigate, such as on farms with 10 or fewer employees that have not had temporary labor camp activity within the previous 12 months. Federal figures compiled by the U.S. Bureau of Labor Statistics, with cooperation of NCDOL, include all work-related fatalities. A link to the federal figures can be found on the NCDOL [website](#). Fatality data for 2019 will be published in the fourth quarter of 2020.

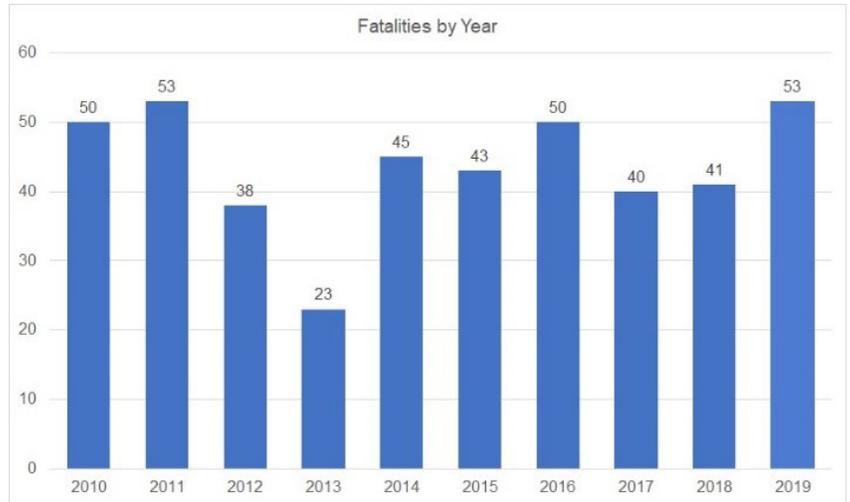
The construction industry continues to be the most hazardous industry in the state, accounting for 20 work-related deaths, four more than in 2018. The N.C. Department of Labor will continue its special emphasis program for construction to maximize its resources and pinpoint problem areas.

Part of the OSH Division’s strategy to reduce work-related fatalities includes encouraging employer and employee participation in various safety and health outreach activities. The OSH Division also works with businesses and organizations that represent some of the most hazardous industries through partnerships and alliances to heighten industry awareness and assist with education and training.

The OSH Division has participated in a federal OSHA campaign to prevent falls in construction for the past six years. This year the National Safety Stand-Down to Prevent Falls in Construction is scheduled for the week of May 4 through 8.

“I encourage all construction companies to participate in the stand-down and focus on fall prevention efforts on construction sites to help reduce these preventable deaths,” said Kevin Beauregard, director of the NCDOL OSH Division. “What is troubling about falls is that they can almost always be avoided with proper safety training and use of basic personal protective equipment. The OSH Division will increase construction-related activity in some counties in the spring, especially those identified as having high activity or multiple fatalities.”

One notable increase involved the transportation and public utilities industry, which tied for the second highest number of work-related deaths with eight, an increase from four in 2018. Manufacturing incidents remained the same with eight in 2019. Other increases in 2019 include the retail trade industry from one to three and the services industry from four to seven.



continued on Page 3





From Labor Commissioner Cherie Berry

The Department of Labor has lots of news to share with our subscribers in this first edition of the **Labor Ledger** for 2020.

First off, the department recently released the Occupational Fatality Inspection Review (OFIR) figures for 2019. This count for work-related fatalities is tracked by our Planning, Statistics and Information Management (PSIM) Bureau and includes only the work-related fatalities that fall within the Occupational Safety and Health (OSH) Division's jurisdictional authority.

These data are important to NCDOL because they are timely and provide a snapshot of where and how accidents are happening by including a county breakdown and other details about the incidents that will not be provided by the 2019 federal fatality figures, which will be available in December. The internal tracking report of these work-related fatalities allows the OSH Division to plan and react as needed if a certain pattern in a certain industry is identified at any point during the year.

As you will see in the article, the number of work-related fatalities across the state increased in 2019, and you will also see in the accompanying fatality chart, that fatalities tend to fluctuate year to year, mirroring a national trend. There are many theories as to why fatalities continue to fluctuate, but one theory that cannot be overlooked, especially with the growth our state is experiencing, is that there is a constant stream of new workers entering the workplace each day. It is so very important that these workers receive the proper training and proper safety equipment before being released on a jobsite.

Should any of our subscribers need help with education and training for new and existing workers, please call our toll-free number to ask for assistance, 1-800-NC-LABOR (1-800-625-2267).

On another note, most of our subscribers may not realize that the Department of Labor has a statutory seat on the N.C. Human Trafficking Commission. I am proud of Jennifer Haigwood, one of the members of my administration's leadership team, for being appointed by Gov. Roy Cooper to chair the commission. Please see Page 4 to learn more about the commission and what North Carolina is doing to combat human trafficking and assist survivors.

Cherie Berry



Inside this edition:

Gov. Cooper Appoints Haigwood Commission Chair	Page 4
HBCU/MSI Fellows From NCDOT Visit NCDOL	Page 5
Safety Award Applications Now Being Accepted	Page 6
First Building Star Best Practice Workshop	Page 6
NCDOL Warns of Labor Law Poster Scams	Page 7
Deadly Mistakes	Page 8
Workplace Worries	Page 9
Retaliatory Rights	Page 9
Bulletin Board	Page 10

Recognition Roundup

“Recognition Roundup” identifies businesses that qualify for one of the N.C. Department of Labor’s recognition programs. Congratulations to all of the recent award recipients. For a complete list of **Star** and **SHARP** sites, visit the NCDOL **website**.

Building Star *Recertification

LeChase Construction Services, Durham*

Carolina Star *Recertification

Celanese, Shelby Facility, Grover*
Eaton Corp., Vehicle Group Transportation Division, Kings Mountain*
Mt. Olive Pickle Co. Inc., Mount Olive*

Public Sector Star *Recertification

Mecklenburg County Park and Recreation, Park Operations Division, Charlotte*

SHARP *Recertification

Care Concepts Inc. dba Village of Wilkes Skilled Care, North Wilkesboro*
Gaston County Dyeing Machine Co., Mount Holly*
Service Thread Manufacturing Co., Laurinburg*
High Point Pediatric Dentistry, High Point*
APLIX Inc., Charlotte*
Highgrove LTCC, Reidsville*
Atlantic Dental Group, Wilmington*
Aldersgate UMRC Inc., Charlotte*



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Falls Lead Work-Related Incidents in Tar Heel State

continued from Page 1

There were no work-related fatalities in 70 of North Carolina’s 100 counties. Mecklenburg County had the most work-related fatalities with seven, followed by Guilford County with four. Buncombe, Orange and Wake Counties each experienced three fatalities. Cabarrus, Carteret, Catawba, Durham, Edgecombe, Lincoln, Randolph and Surry Counties each experienced two fatal workplace incidents. Seventeen counties experienced one fatality.

Whites accounted for 31 of the 53 work-related fatalities. Hispanics accounted for 14. Blacks accounted for seven, and there was one Asian fatality. Men accounted for 50 of the 53 deaths. Women accounted for three workplace deaths.

While fatalities continue to fluctuate, North Carolina’s injury and illness rate has steadily declined since 2001 and remains at a historic low 2.4 per 100 full-time workers for 2018. The U.S. Bureau of Labor Statistics compiles the injury and illness rate data. The rate accounts for growth and contraction in total hours worked in industry, which is an important factor in a state like North Carolina that has experienced significant growth.

Businesses may call 1-800-NC-LABOR to learn more about free safety training opportunities provided by NCDOL or visit the [website](#).

2016-2018 Total Recordable Case (TRC) Rates by Industry

INDUSTRY	2016	2017	2018
All industries including state and local government	2.7	2.5	2.6
Private industry	2.5	2.3	2.4
Agriculture, forestry, fishing, and hunting	2.7	3.7	4.1
Mining, quarrying, and oil and gas extraction	1.5	-	1.6
Construction	2.2	1.8	2.5
Manufacturing	2.9	2.9	2.8
Wholesale trade	2.6	2.2	3.3
Retail trade	2.8	3.0	2.6
Transportation and warehousing	5.1	4.9	4.5
Utilities	1.7	1.9	1.7
Information	1.1	1.0	1.3
Finance and insurance	0.3	0.4	--
Real estate and rental and leasing	1.1	1.7	2.8
Professional, scientific, and technical services	0.9	0.8	1.3
Management of companies and enterprises	1.3	0.8	0.7
Administrative and support and waste management and remediation services	2.7	--	1.8
Educational services	1.7	1.2	1.6
Health care and social assistance	3.5	3.6	3.5
Arts, entertainment, and recreation	3.2	3.3	3.2
Accommodation and food services	2.7	2.5	2.3
Other services (except public administration)	2.4	1.6	1.3
State government	2.4	2.6	2.3
Local government	4.1	4.3	4.5

2016-2018 Days Away, Restricted or Transfer (DART) Rates by Industry

INDUSTRY	2016	2017	2018
All industries including state and local government	1.4	1.3	1.4
Private industry	1.3	1.3	1.3
Agriculture, forestry, fishing, and hunting	1.7	2.5	3.3
Mining, quarrying, and oil and gas extraction	0.8	-	1.0
Construction	1.5	1.1	1.6
Manufacturing	1.7	1.8	1.6
Wholesale trade	1.6	1.5	2.0
Retail trade	1.8	1.8	1.6
Transportation and warehousing	3.9	3.9	3.3
Utilities	1.4	1.7	0.8
Information	0.5	0.4	0.8
Finance and insurance	0.1	*	--
Real estate and rental and leasing	0.7	0.5	2.0
Professional, scientific, and technical services	0.3	0.3	0.4
Management of companies and enterprises	0.5	0.3	0.2
Administrative and support and waste management and remediation services	1.4	--	1.1
Educational services	0.6	0.5	0.6
Health care and social assistance	1.4	1.5	1.5
Arts, entertainment, and recreation	1.5	1.6	1.4
Accommodation and food services	0.9	0.9	0.9
Other services (except public administration)	1.1	0.9	1.0
State government	1.2	1.4	1.2
Local government	1.9	2.0	2.0

* Data too small to be displayed

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Gov. Cooper Appoints Jennifer Haigwood as Chair of N.C. Human Trafficking Commission

By Dolores Quesenberry, Communications Director

Human trafficking is a national crisis that touches everyone negatively not only by eroding personal dignity and destroying moral fabric in communities nationwide, but also by enabling criminals to benefit financially from criminal activity. Federal and state efforts are under way to bring together law enforcement agencies, service providers and government leaders in each state to combat this crime.

In North Carolina, the N.C. Human Trafficking Commission aims to create greater awareness of human trafficking and foster partnerships that bring services to survivors in North Carolina's 100 counties by engaging leaders statewide. The commission, housed within the N.C. Judicial Branch, unites the Judicial Branch, the Attorney General's Office, the Department of Public Safety and the Department of Labor with law enforcement and other stakeholder representatives to accomplish this goal.

The N.C. Department of Labor has a statutory seat on the N.C. Human Trafficking Commission in addition to the primary duties to ensure workplace safety and health and public safety. Jennifer Haigwood, director of administration and governmental affairs for NCDOL, has served as the NCDOL representative for the commission for six years and was recently appointed by Gov. Roy Cooper to serve as chair.

"The commission is fortunate to have the leadership of Jennifer Haigwood who is passionate about helping victim-survivors of this horrific crime," Labor Commissioner Cherie Berry said. "I am confident the commission will continue to make great strides in combatting human trafficking under Jennifer's leadership."

At a recent press conference declaring the month of January National Slavery and Human Trafficking Prevention Month, Haigwood spoke about some of the strides made in North Carolina and the importance of increased public awareness.

"Public awareness of human trafficking is vital to not only identify victim-survivors and traffickers, but also to prevent this crime from happening in the first place," Haigwood said. "The North Carolina Human Trafficking Commission has been working to increase awareness for six years and appreciates all partnerships to develop the public's understanding of this crime."

According to a release issued by the Administrative Office of the Courts, North Carolina received an "A" rating in the national fight against human trafficking in 2019. The report issued in November was produced by Shared Hope International and compares North Carolina's Human Trafficking Commission on a national level. The report analyzes state laws to protect juvenile sex trafficking survivors and hold buyers and traffickers accountable. Those interested in learning more about what is taking place in our state may view the study of state laws on child sex trafficking on Shared Hope's [website](#).

One example of how North Carolina has made progress is in Cumberland County, where a new innovative program called the Worth Court has been established to help get services to survivors of human trafficking when they do find themselves in court. "Worth" stands for "We Overcome Recidivism Through Healing."

"The I-95 corridor, which runs through Cumberland County, has contributed to an increase in instances of human trafficking in Fayetteville," Haigwood said. "This court is a much-needed resource for the victim-survivors, and we applaud Cumberland County for its efforts to make this court available to these people."



NCDOL's Jennifer Haigwood, director of administration and governmental affairs, speaks at a press conference Jan. 15 declaring January as Human Trafficking Prevention and Awareness Month. Gov. Roy Cooper recently appointed Haigwood as the chair of the N.C. Human Trafficking Commission.



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(1-800-625-2267)

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HBCU/MSI Fellows From NCDOT Visit NCDOL

By Neal O'Briant, Public Information Officer

On Tuesday, Dec. 10, Labor Commissioner Cherie Berry welcomed 11 recent graduates of North Carolina's historically black colleges and universities or minority-serving institutions. These graduates are now fellows of the North Carolina HBCU/MSI Fellows Program.

The N.C. Department of Transportation offers the fellows opportunities to serve a two-year commitment in a NCDOT unit or division, which is administered by the Office of HBCU Outreach. HBCU/MSI fellows learn about the agency and participate in professional certification and developmental opportunities.

Nicole Gye'Nyame, special projects coordinator with the Office of HBCU Outreach at the N.C. Department of Transportation, arranged for Commissioner Berry and William Gerring, bureau chief of the Mine and Quarry Bureau, to meet with the fellows. This was an opportunity for the fellows to learn about the N.C. Department of Labor and its role in the lives of North Carolina citizens.

"It was a distinct honor for the HBCU/MSI fellows to receive an invitation to meet with N.C. Commissioner of Labor Cherie K. Berry," Gye'Nyame said. "The HBCU/MSI fellows were excited and eager to meet the iconic North Carolina 'Elevator Lady' they grew up with. We know this encounter had a lasting impression on each of the HBCU/MSI fellows and is pivotal in their professional development and how they view state government. We sincerely appreciate Commissioner Berry, Mine and Quarry Bureau Chief William Gerring, and Communications Director Dolores Quesenberry for speaking with HBCU/MSI fellows about the day to day operations of the N.C. Department of Labor."



Labor Commissioner Cherie Berry and William Gerring, Mine and Quarry bureau chief, explain the role of training classes that the N.C. Department of Labor provides for mines and quarries across the state.

background as well. It is evident to me the group consists of unlimited talent with very bright futures."

During the time, the fellows were also given the opportunity to ask any questions that came to mind.

"It was so wonderful meeting all the bright young professionals with the HBCU Fellows Program," Commissioner Berry said. "I am so impressed with what these young scholars are doing for the NCDOT, and it is comforting to know that they are potentially some of the future leaders of North Carolina's state government."

If interested in learning more about the HBCU Outreach program, please visit the N.C. Department of Transportation [website](#).



The HBCU/MSI fellows meet with Labor Commissioner Cherie Berry and William Gerring, Mine and Quarry bureau chief, at the Labor Building in downtown Raleigh on Tuesday, Dec. 10, 2019.

Since the fellows are working in the transportation field, it was arranged for the fellows to learn about the Mine and Quarry Bureau at the N.C. Department of Labor. The bureau enforces the 1975 Mine Safety and Health Act of North Carolina. In compliance with the act, the bureau provides education and training, technical assistance, and consultations and also helps mine and quarry operators to comply with the provisions of the 1977 Federal Mine Safety and Health Act.

"It was an enlightening experience spending time with the HBCU Fellows," Gerring said. "I learned that through the opportunities they had to grow through professional certifications and development, leadership opportunities, along with being able to participate in various workshops for career development and soft skills, HBCU fellows will certainly become qualified individuals for potential permanent positions in state government. It was impressive listening to their career desires and learning about their educational

Wage & Hour Presentations

Investigators from the Wage and Hour Bureau offer presentations to employers, employees, high schools and career development organizations. The presentations cover the provisions of the Wage and Hour Act, minimum wage, overtime, recordkeeping, wage payment and youth employment. The presentations are designed to enhance North Carolina citizens' knowledge on labor laws and to inform employers and employees of their rights and responsibilities in wage and hour matters. Investigators conduct the presentations onsite at schools or local businesses if there is a minimum of 10 attendees.

To schedule a presentation, please email whbinfo@labor.nc.gov with the following information: requesting individual or business, location, desired topics, and preferred dates.

Safety Award Applications Now Being Accepted

By Eursula Joyner, Safety Awards Coordinator

The N.C. Department of Labor has begun accepting applications from businesses that qualify for a workplace safety award. Safety awards are presented to companies throughout the year that have demonstrated above-average worker safety and health programs.

“Our safety awards program recognizes employers and employees that are committed to promoting safe work environments in their communities,” Labor Commissioner Cherie Berry said. “It is always a great honor to recognize those businesses and organizations that go beyond the standard, for a good safety record is something they can be quite proud of.”

Businesses that qualify for the award must meet two requirements. They must be free of fatalities at the site for which they are applying. The site’s injury and illness rate also must be at least 50 percent below that of their industry’s average rate.

Award recipients will be honored in their communities throughout the state at safety awards banquets co-sponsored by the N.C. Department of Labor, local chambers of commerce, the Safety and Health Council of North Carolina, and other organizations.

This is Labor Commissioner Cherie Berry’s last safety award banquet season. Although she has always encouraged businesses to apply, she hopes that this year’s banquets will have the most participation ever.

“This legacy program has become a North Carolina tradition, and I have been proud to be a part of its rich 73-year history these past 19 years that I have served,” Commissioner Berry said. “We hope that your company will be able to celebrate its safety accomplishments with us this year.”

For more information on the Safety Awards Program or to download an application, visit the NCDOL [website](#). The deadline for submissions is Friday, Feb. 14, 2020.

First Building Star Best Practice Workshop Held in Greensboro

By LaMont Smith, Recognition Program Manager

The Carolina Star Program conducted its first Building Star Program Best Practice Workshop on Nov. 19 in Greensboro. The workshop allowed companies that participate in the Building Star Program the opportunity to collaborate and share construction-specific ideas and perspectives that may further enhance a company’s overall safety and health culture and performance.

There are currently 24 construction companies that are designated as Building Star participants. The majority of these companies participated in this first workshop.

The agenda allowed for each company to present a best safety practice utilized by their respective construction companies. A total of 11 construction best safety practices were presented, in addition to two presentations provided by senior leadership of Balfour Beatty



Attendees and participants gather for a photo while in the workshops at the first Building Star Program Best Practice Workshop on Nov. 19 in Greensboro.

Infrastructure and LeChase Construction Services. Both senior leaders indicated the importance of employee safety training and the benefit of investing in the people you work with.

Labor Commissioner Cherie Berry concluded the workshop by expressing her appreciation to all of those who were in attendance. Commissioner Berry also indicated that she was looking forward to this becoming an annual event that she will be able to attend in 2020 as she finishes her final year as labor commissioner.

“I am looking forward to the day we are able to use this workshop as a time to reach out to other companies who may not qualify for the Building Star Program but want to improve their safety,” Commissioner Berry said.

A total of 31 participants attended this inaugural workshop. Many attendees indicated that they were pleased with the participation and support of this event. Additionally, they found the opportunity to share best safety practices with other construction companies to be a rewarding experience and that they plan to incorporate some of the ideas shared by others into their individual safety and health programs.

The 2020 Building Star Best Practice Workshop is tentatively scheduled for Tuesday, Nov. 17, in Greensboro.



Senior Leadership Speakers (L-R) Seth London, vice president of LeChase Construction Services; Labor Commissioner Cherie Berry; LaMont Smith, recognition program manager for NCDOL; Mark Johnnie, vice president and regional manager for Balfour Beatty Infrastructure at the first Building Star Program Best Practice Workshop on Nov. 19 in Greensboro.

NCDOL Warns Businesses to Be Aware of Labor Law Poster Scams

By Natalie Bouchard, Public Information Officer

After handling multiple reports of companies using scare tactics or threatening language about fines to sell labor law posters to employers, the N.C. Department of Labor warns businesses across the state to be vigilant about suspicious correspondence they may receive.

“These scams surface periodically and business owners, confused and upset about receiving the correspondence, will contact us,” Labor Commissioner Cherie Berry said. “The threats of fines are bogus and should be ignored. The Department of Labor provides free sets of labor law posters to businesses.”

The businesses often pose as government officials or use misleading company names. These companies use public information to contact new and old businesses to try and swindle them into purchasing labor law posters. The N.C. Department of Labor has issued cease and desist letters to these companies, but many are still operating.

Some poster companies threaten fines from \$7,000 to as much as \$17,000 for non-compliance. Mailings can often appear to be from an official or government source and request fees for posters that cost anywhere from \$84 to \$200. The letters received from these companies often are printed to look like an invoice. Businesses should be aware that scammers may also attempt to contact them by either email, text or phone.

While labor law posters are required to be displayed at a workplace by law, NCDOL inspectors carry the most up-to-date versions of the posters in their vehicles and will distribute them free of charge. The N.C. Department of Labor will never fine a business that has older versions of the posters displayed.

NCDOL prints new versions anytime a law is significantly changed or updated by the Legislature or Congress. Businesses are not required to order a new poster each time a change is made. Employers that wish to order new posters can visit our [website](http://www.labor.nc.gov) or can call 1-800-625-2267.

The labor law posters are printed in two sections and must be posted together in an area where employees frequently gather. If you have a poster with a printed date of 11/17 in the bottom right-hand corner, you have the most current set of posters.

The N.C. Department of Justice recently issued a consumer alert concerning this imposter scam. If you have been or are contacted by one of these companies, do not feel pressured to buy a labor law poster. Report them to NCDOJ's Consumer Protection Division [online](http://www.ncdoj.gov) or call 1-877-5-NO-SCAM.

N.C. Department of Labor
Wage and Hour Notice to Employees

Wage and Hour Act
Minimum Wage: \$7.25 per hour (effective 7/24/09).
Employer in North Carolina is required to pay the higher of the minimum wage established by law or the federal law. The federal minimum wage was established by the Fair Labor Standards Act (FLSA) and was increased to \$7.25 per hour effective July 24, 2009. The federal minimum wage is \$7.25 per hour for all employees who are not exempt from the FLSA.

Safety and Health
N.C. Department of Labor Responsibilities
The state of North Carolina has a federally approved program to administer the Occupational Safety and Health Act in North Carolina. This program is administered by the N.C. Department of Labor, Occupational Safety and Health (OSHA) Program.
The OSHA Division has the following responsibilities and powers:
• **Inspection**—The OSHA Division conducts workplace inspections that can be triggered by complaints, accidents or because the workplace has been notified of a violation.
• **Citations**—Following an inspection, the employer may be cited for one or more violations of OSHA standards. The employer will be given a reasonable time to correct the violation to avoid further action.
• **Fines**—An employer can be fined up to \$7,000 for each "serious" violation. Serious violations that involve injury to a person under 18 years of age could result in fines up to \$14,000 per violation. An additional maximum \$1,000 penalty can be assessed for each day an employer fails to correct an abate a violation after the abatement time set by the program.
• **Penalties**—A penalty of up to \$70,000 may be imposed for each willful or repeated violation of an OSHA standard.
• **Criminal Penalties**—Up to \$10,000 may apply against employers who are found guilty of willfully violating any standard, rule or regulation that has been issued in an employer's field.
• **OSHA Standards**—The division keeps all federally mandated OSHA standards updated or can create them in more than 300 areas, as long as the new version is at least as safe as the federal standard.
A copy of any specific standard adopted by the OSHA Division is available free of charge. The entire "General Industry" or "Construction Industry" standards are available for a nominal cost by calling 1-800-625-2267 or 919-807-2875.

OSHA Notice to Employees
Public and private sector employees have a "general duty" to provide their employers with workplace safety. This duty is recognized in the OSHA Act and health standards adopted by the Labor Department.
• **Inspection**—An employer has the legal right to refuse to allow an inspection to enter the workplace without an administrative inspection warrant. If this occurs, the inspector will obtain a warrant to conduct the inspection. The employer has the right to accompany the inspector during the physical inspection.
• **Discrimination**—It is illegal to retaliate in any way against an employee for raising a health or safety concern, filing a complaint, reporting a work-related injury or illness, or assisting an inspector. The Department will investigate and may prosecute employers who take such action.
• **Citations**—If an OSHA inspection results in one or more citations, the employer is required to promptly and proportionally abate the citation or, at the employer's option, the violation abatement order. It must correct the problem for three working days or until the violation has been corrected or abated, whichever is longer.
• **Contesting Penalties**—Once an employer has been cited, he or she may request an "informal conference" with OSHA officials to discuss the penalty, abatement or other issues related to the citation. This request must be made within 15 working days after the citation is issued.
The employer may formally contest the filing of a "Notice of Citations" or the citation or proposed penalty to the N.C. Department of Labor and Health, Review Commission. The Review Commission is an independent body that hears and decides controversies between employers and employees concerning citations, abatement periods and penalties.
Employees wishing to know more about the procedure for filing a "Notice of Citations" should contact the Review Commission. Employees: 919-720-3800. Website: www.osha-northcarolina.com.

Other OSHA Information
• **Federal Membership**—The OSHA Division is authorized by the U.S. Department of Labor. Federal authorities ensure that there is no duplication of effort. If you have a complaint about the state's administration of OSHA, you should file the complaint with the U.S. Department of Labor, 401 Fourth St., N.W., Suite 4750, Atlanta, GA 30303.
• **Additional Information on Questions**—Before filing a question about any of the above information any way or call:
N.C. Department of Labor
Occupational Safety and Health Division
101 S. Salisbury Street, 11th Floor
Raleigh, NC 27603-1401
Phone: 1-800-625-2267 or 919-807-2796
Fax: 919-807-2876
Email: ohsa@labornet.gov
www.labor.net

Employee Rights and Responsibilities
Public and private sector employees must comply with occupational safety and health standards, rules, regulations, and those rules issued under OSHA that relate to their own safety and health.
• **Complaints**—An employee has a right to make a complaint regarding workplace conditions he or she believes are unsafe, unhealthy or in violation of OSHA standards. When an OSHA inspector is in an employer's workplace, that employer has a right to meet or consult with the employee and his or her representative. An employer has the right to appear before the Review Commission to contest the abatement period and the cited violation.

Unemployment Insurance
NCDOL does not handle matters relating to unemployment insurance. If you would like information about unemployment insurance policies or procedures, please contact the Department of Commerce, Division of Employment Security, P.O. Box 2600, Raleigh, NC 27611-2600. 1-800-775-2900, www.nc.gov

N.C. Workers' Compensation Notice to Injured Workers and Employers (Form 17)
NCDOL does not handle matters relating to workers' compensation. If you would like information about workers' compensation policies or procedures, please contact the N.C. Industrial Commission at N.C. Industrial Commission, 10000 Capital Center, Raleigh, NC 27616-1000. 919-807-2200, www.nc.gov. Form 17 may be printed, posted and used in printed or electronic form that appear on the Industrial Commission website. It is not valid if printed or used in printed or electronic form that appear on the Industrial Commission website.

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Cherie Berry
Commissioner of Labor

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DEADLY

Mistakes



By Judyth Niconienko, State Plan Coordinator

Fatal Event: On Aug. 30, 2016, a 24-year-old man drowned when he fell from a scaffold/working platform that was suspended below the span of a bridge. He fell about 10 feet into a non-navigable river and drowned.

Investigative Findings: A subcontractor had been hired to provide all labor, equipment and materials to repair, clean and paint the structural steel on the underside of a bridge that spanned a river. The bridge was 941 feet long and consisted of seven spans that were divided into four phases for the work completion. The employees were completing the fourth phase of job when the drowning occurred.

The subcontractor's five employees were in the process of constructing a platform scaffold that was drawn up by a registered professional engineer and built to certified specifications. Two employees worked on top of the bridge handing down the materials to build the platform, and three employees worked below the bridge constructing the platform. The 150-foot platform consisted of cables and sections of chain-link fencing material. When finished, the platform would create a contained work area that would provide fall protection for the employees. From this platform employees would sandblast and clean the bridge girders before painting them.

It was a known fact that one of the five employees onsite could not swim. He had been told to stay on top of the bridge. At some point during the construction of the platform, unnoticed by the foreman, he had swapped job duties with another employee and was now assisting with the construction of the scaffold/working platform below the bridge.

The employees working underneath the bridge had to climb down a ladder affixed to the bridge to access the platform work area. The other employees previously assigned these duties were wearing fall protection and were provided life jackets to wear as personal protective equipment (PPE). They were in the process of installing the chain-link fence when a section of the fence became entangled. The employees untied the lanyards of their fall protection to allow for better movement to free the fence. The employee who had swapped job duties slipped and fell into the water and subsequently drowned. He was not wearing a life jacket, and the skiff that was required to be present for emergencies during this work was located on the farthest river bank and not readily accessible.

Discussion: As part of the written contract, the subcontractor had to submit a safety plan. Two employee names were written into the plan as being the quality control and safety officers (QCSO) that were responsible for implementing the safety procedures as outlined in the plan. The plan indicated that mandatory safety training would be provided to employees before they started work and that the QCSO would monitor the job with daily inspections and ensure the use of PPE.

A long-term foreman of the company indicated that this type of work is somewhat seasonal and that employees will go and work

elsewhere and come back to them when the busy season starts. The company would generally accept the employees' word they had previously received fall protection training, without checking for their training records or otherwise ensuring they had been appropriately trained prior to starting them on the job.

The subcontractor could not provide any documentation from any previous jobs that showed that any employees had been disciplined or reprimanded for not following safety plans or safety procedures.

A new foreman had recently been assigned to the bridge job and had been named as the competent person* in the safety plan. However, he was not experienced in suspended platform construction, and he had not received any safety training before he started work on the project.

An employer needs to provide a competent person having the required training, knowledge and experience on the type of scaffold system used at the jobsite and be able to direct and supervise the work during all erecting, dismantling, alteration or moving of the scaffold. The competent person is also tasked with being on the same walking or working surface as the employees and close enough to communicate with them. The competent person must also have the authority to take prompt corrective measures to eliminate immediate safety issues.

In this instance the designated competent person did not have sight of employees underneath the bridge; was unaware that a worker had swapped job duties; was unaware that employees had unhooked their fall protection harness; and was also unaware that an employee working over water was not wearing a U.S. Coast Guard approved life jacket or buoyant work vest while working over or near water.

Recommendations:

- ✘ Effective and clearly communicated safety policies with a matching disciplinary program are crucial to any safety program. In addition to ensuring compliance with safety regulations, employers must enforce their own safety rules and what is outlined in their safety plan.
- ✘ Monitoring needs to be in place to ensure employees are utilizing all required PPE, life jackets, and safety harnesses/lanyards. Employers must ensure employees don U.S. Coast Guard approved life jackets or buoyant work vests while working over or near water. In addition, at least one lifesaving skiff must also be immediately available at locations where employees are working over or adjacent to water.
- ✘ If employees are hired or rehired to an employer, a system needs to be in place to certify that all employees have received appropriate safety and health training before they can start their job duties. Training is specifically required in many OSHA standards.
- ✘ If a task requires a competent person be present, the employer should have criteria for naming that person a competent person and ensure that they have the knowledge, experience and ability to carry out that duty.

* A competent person is an employee who is able to recognize hazards associated with a particular task and has the ability and authority to mitigate those hazards and stop work activities.

WORKPLACE WORRIES



By Kisha Holmes, Bureau Chief, Wage and Hour Bureau

Q: *If I offer a yearly bonus to my employees, am I required to put this in writing?*

A: Yes. Every employer must make available to its employees, in writing or through a posted notice, maintained in a place accessible to its employees, employment practices and policies with regard to promised wages.



Retaliatory Rights

By Harriet Hopkins, Administrator
Retaliatory Employment Discrimination Bureau

Q: *I think I was fired because I got hurt and filed a workers' compensation claim. Is there anything I can do about that?*

A: Yes. You may be protected by the Retaliatory Employment Discrimination Act (REDA). Your employer cannot fire you *because* you filed a claim. If the employer proves that there was another reason for your termination such as excessive tardiness, you may not have a claim under REDA. The NCDOL enforces REDA, and we are available to answer questions and help you file a complaint. Call us at 1-800-NC-LABOR.



Be sure to check out NCDOL's podcast, **Inside NC Labor**. Episode 27 (top left) features special guest Felicia Gore Hoover, Occupational Safety and Health Review Commission. Episode 28 (top right) features Labor Commissioner Cherie Berry as she recalls highlights from 2019 at the N.C. Department of Labor. Episode 29 (left) features special guest Harriet Hopkins, administrator for the Retaliatory Employment Discrimination Bureau and author of **Retaliatory Rights**, a new **Labor Ledger** column above. **Inside NC Labor** is designed to inform and educate North Carolina citizens on the role that the Department of Labor plays in state government.



Bulletin Board

Mine and Quarry Training

Annual Refresher Training

Feb. 10, *Winston-Salem*
Feb. 24, *Wake Forest*

New Miner Training

Feb. 11–13, *Winston-Salem*
Feb. 17–19, *Wake Forest*

MSHA New Miner Training

March 2–4, *Asheville*
March 9–11, *North Wilkesboro*

MSHA Annual Refresher Training

March 5, *Asheville*

To register for any of these classes,
call the Mine and Quarry Bureau at 919-707-7932.

10-Hour Construction Industry Awareness Course

March 10–11, Nags Head

Click [here](#) for more information.

This course is designed to help employers understand OSH regulatory requirements and also ensure employers and employees understand the requirements necessary in providing an acceptable safety and health program for the workplace. This course will provide a basic overview of the Construction Industry Safety and Health Standards, 29 CFR 1926.

Construction Forum

April 22, Raleigh

Click [here](#) for more information.

This year's North Carolina Construction Safety Forum focuses on major construction health hazards, which are often forgotten but can be controlled as effectively as safety risks, such as falls. This forum will focus on four common problems found on large and small job sites alike: heat stress, manual material handling, air contaminants and noise. Join us as we explore these often overlooked health issues and explore effective ways to control them and comply with OSHA standards.

OSH Webinar Courses

Visit the **OSH Training Schedule Calendar** to view upcoming internet training and other safety courses. Among the courses being offered include:

- ◆ *Inspection Process*
- ◆ *Excavations and Trenching*
- ◆ *Personal Protective Equipment*
- ◆ *Heat Stress*
- ◆ *Fall Protection*
- ◆ *Introduction to OSH*

1-800-NC-LABOR
www.labor.nc.gov

**Have a ❤️
for Safety**

Complying With OSHA Construction Industry Standards Beginners Level

May 13–14, Raleigh

Click [here](#) for more information.

This beginner's level two-day course will cover construction industry standards, state specific standards for general industry and the recordkeeping standards. Upon completion, the attendee will know which standards apply to them, what requirements need to be met to comply with the applicable standards and most materials needed to meet the requirements. This includes a safety and health management program, PowerPoint presentations, training handouts, and an industry guide detailing the standards that have special requirements (i.e., inspections, tests, training, programs).

