

**Case 390. 44-year-old Hispanic male laborer died when he was struck by a van entering a highway work zone.**

A 44-year-old Hispanic male laborer died when he was struck by a van entering a highway work zone. The decedent and coworker were on break from sealing pavement cracks in the right lane of a 3-lane expressway and standing behind/near their parked “kettle truck” when they were struck by the van. The “kettle truck” contained a tank of molten crack fill material that was pumped through a hose and wand into the cleaned cracks. The current work zone started with signage, then orange/white barrels forming a taper and an arrow board on the right shoulder closing the far right lane of the expressway. Tall orange/white cones were placed on the division lines dividing the center and right lane. The total length of the work zone was approximately two miles. Per contract with the MDOT, no reduction in speed was permitted from the posted 55 mph and no mobile attenuator was used. The work operation was performed at night. The incident area was lit by overhead streetlamp lighting and the lighting on the kettle truck. The decedent’s coworker stated to the MIOSHA compliance officer that when he had checked prior to the incident, the two highway entrance ramps nearest the work zone area had been closed; one ramp approximately one mile away and one ramp near the work zone. The driver of the vehicle lived near the closest ramp to the incident scene. The responding police indicated that because of the low lighting, the driver of the van may not have been able to see the truck due to its being covered in tar. The driver of the van did not apply his brakes before striking the both of the workers and the kettle truck. The parked work truck was pushed from the right lane to the center lane from the force of the collision. The responding police estimated the van to be traveling a minimum speed of 60 mph before the collision. The location where the van entered the work zone was unknown, although there was a witness report that the van was driving in the closed work zone lane in an area past the entrance ramp that was closest to the work zone and had been closed according to the decedent’s coworker. Both workers were wearing high visibility vests at the time of the incident.

MIOSHA Construction Safety and Health Division issued the following Regulatory Notice and several Health and Safety Recommendations to the employer at the conclusion of its investigation.

**REGULATORY NOTICE: RECORDING AND REPORTING OF OCCUPATIONAL INJURIES AND ILLNESSES, ADM PART 11, RULE 408.22139(1):**

Within 8 hours after the death of any employee from a work-related incident or the inpatient hospitalization of 3 or more employees as a result of a work-related incident, you must orally report the fatality/multiple hospitalization by telephone or in person to the Michigan Department of Consumer and Industry Services, Bureau of Safety and Regulation, State Secondary Complex, 7150 Harris Drive, Lansing, Michigan, Phone 1-800-858-0397.

The death of an employee, working at a construction site, was reported to MIOSHA approximately 14 hours after the incident. Crack sealing was being done on *expressway* at *Street A*, in *City*, Michigan. *MIFACE* removed the identifying *expressway*, *street* and *city*.

## SAFETY AND HEALTH RECOMMENDATIONS

As a means to protect the employers most valuable tool, it's employees, while working on/in/next to public and/or private roadways (and their like) the corporate policy should be reviewed and appropriate action taken. Such action should include, but not be limited to:

1. Ensuring that daily records are maintained (including photographs of final installation) detailing what Temporary Traffic Controls have been placed. These records should include a daily checklist indicating what controls are installed, where they are located (GPS coordinates may be used), what condition they are in and who inspected them.
2. Obtaining permission (from the entity having control over the roadway) permitting the employer to install speed reduction to "45 mph" signage where the speed limit is greater than 45 mph.
3. Obtaining permission for use of a mobile attenuator, or device serving the same purpose as an attenuator for employee protection.
4. Where possible physical barriers (k-rails Jersey barriers) be installed to separate the work zone from the traveled way.
5. If it is noted that traffic is not observing the lawful signage, the employer will notify the appropriate law enforcement entity for assistance, as soon as possible, but no later than the end of the next work shift. Such notification would be verbal and given in a written form to the highest ranking official contacted.
6. Said actions, listed herein should then be included in the daily records (Item #1) and maintained on file for a period of 1 year past the completion of the contract.
7. All items listed above should be included in employee training (field staff and management). Said training should be given in a manner/language that permits it to be fully understood.