

CONSTRUCTION LAW

Safe Game Plan

SAFETY PROGRAM COMMUNICATIONS SHOULD TAKE INTO ACCOUNT A BILINGUAL WORK FORCE. **BY KEVIN HUDSON AND MATTHEW SPIVEY**

Countless opportunities for accidents on the job site arise daily, as evidenced by the fact that more than nine million construction workers build and maintain houses, highways, workplaces and general infrastructure systems. We all know that injuries hurt construction workers' physically and hurt the company's bottom line.

Safety planning on a construction job is often a matter of a bullet point summary with accompanying training stickers to evidence compliance and knowledge of the required personal protective equipment (PPE) provided by the construction team. The typical approach pales in the face of the risks presented. Construction work includes many inherently dangerous conditions such as height, excavations, noise, dust, power tools and equipment, confined spaces and electricity. Mitigating risk goes well beyond a simple plan at the outset and requires a commitment to ongoing training and communication throughout the project.

Although estimates show that construction workers only make up about 6 percent of U.S. workers, they account for 20 percent of the fatalities, making the construction industry the winner of this unenviable award as the most dangerous industry sector. The dangers multiply when construction addresses natural disaster clean-up. Here, we will focus on specific examples of common problems that can and do happen on the regular construction job, and then look at these examples to demonstrate challenges faced by workers cleaning up after the destruction caused by our recent hurricane season in Florida and the Gulf Coast.

Everyday Issues

Two examples provide possible problems that could occur on almost any construction job, both of which could have been prevented by prior planning and multilingual staffing. First, imagine that a state law requires that a contractor call in a dig site when doing new construction near underground electrical, cable and utility lines. The general contractor is behind schedule on the job already and the subcontractor in charge of the dig is short on workers to operate the backhoe necessary to begin the dig and trenching of the area. What would a contractor reasonably expect?

The superintendent in charge of the job, who has himself been in construction for 30 years and has prior experience operating the equipment in question, asks the understaffed subcontractor

whether they have obtained the necessary utility line location. The subcontractor reports calling in the address on the job site and marking all utility locations. Not wanting to fall further behind and risk delay damages from the owner, the general contractor's superintendent jumps onto the backhoe and starts digging. An hour later, he has hit an underground housing that contains cable and data wires and the entire job is put further behind schedule. Luckily, the line was not a power line, which may have killed the superintendent. Instead, the losses are a full day of work, time to remediate and possible delays.

Now imagine a Spanish-speaking worker who is on his second day on the job. The worker is asked to compact an area that failed soil tests for proper grading and compaction on a prior occasion. He needs the money, the subcontractor in charge of the compaction is behind schedule and the worker has received little training on the equipment. The only other Spanish-speaking worker employed by this particular subcontractor says that he has explained the operation of the equipment to the worker and he seemed to do fine yesterday, his first day on the job. The general contractor's superintendent doesn't speak Spanish and is forced to take the other worker's word for the new worker's abilities, assuming he has worked with similar equipment in the past. The new worker gets through the morning fine, however, upon returning from lunch, the superintendent sees ambulances and police cars. It turns out that the machine became unbalanced, overturned and crushed the worker, leaving him dead at the scene and creating not only emotional, but extended legal and other work related issues.

Each of the above cases actually happened, but could have been prevented with prior team safety planning and a repetitive approach focused on communication and multilingual staffing. These problems may seem simple, but many contractors and subcontractors alike do not have proper training or fail to follow through with written policies. In addition, it is evident that a multilingual safety approach focusing on both English and Spanish instruction is a necessity on the modern construction project.

Hispanics are among the fastest-growing segments of the U.S. workforce. It was recently estimated in the past year that 19.6 million workers in the United States were Hispanic, 56 percent of whom were foreign born. Additional efforts are needed to



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reduce the risk for death among Hispanic workers because of projected increases in their employment, involvement in work with high risk for injury, susceptibility to miscommunication caused by language differences, and other potential risks associated with culture and economic status.

Disaster Clean-up

Common occurrences on construction projects and hazards increase in the presence of natural disasters because work conditions change drastically after natural disasters. Time frames for response are compressed and all matters become urgent. There simply is not as much time for planning for the workers cleaning up in the recent Ike situation in Texas. Moreover, response and recovery workers in hurricane-impacted areas encounter hazards ranging from contact with live electrical equipment to animal bites.

Hurricane-impacted areas present safety and health hazards that should be properly identified, evaluated and controlled in a systematic manner to reduce or eliminate safety and health risks to response and recovery workers involved with construction and rebuilding of the area. General pointers for project managers, general contractors and those in charge of safety training

and compliance that can help to improve job safety both in the everyday construction situation and after a destructive hurricane include, but are not limited to the following:

1. Ask about personal experience and lessons learned from the same. As in any job, we can all learn something new each day and safety experience and planning is no different.

2. Avoid lecturing and encourage participation from workers. Introduce each new point for the day through demonstration, calling on volunteers to answer questions and make sure to leave time for questions. If workers are not forthcoming with the answer, try to find real life examples a contractor's past experience.

4. Stick to the safety goal for the day. While encouraging worker participation, a contractor cannot lose sight of its ultimate job to teach safe and effective techniques to complete the work.

We encourage readers to review whether their state has an approved state safety plan in place for natural disasters, as well as review language resources provided online at the Department of Labor and OSHA websites. ■

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