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GSBE's News to Use

10 Keys to an Effective Emergency Action Plan

Earthquakes, floods, fires, hurricanes, tornadoes—having an action plan is an important part of emergency preparedness. However, merely writing one isn't enough. You also have to make sure it is workable.

Here are 10 key points to consider when developing an emergency action plan, courtesy of, the Cal/OSHA Compliance Advisor :

1. Since electricity is often not available during an emergency, do not store your action plan in electronic form only; make sure there are hard copies readily available. Also, make sure phone lists associated with your plan are available in hard copy and not stored solely in an electronic document or on phone speed-dial lists.
2. List the location of important utility shutoffs, and include digital photos of them so that they can be located quickly and easily (and when doing your regular safety inspections, make sure access to shutoffs is not blocked). Remember, too, to include the location of any tools or keys needed to access the shutoffs—it does no good knowing where the shutoff is if it can't actually be shut off.
3. In addition to utility shutoffs, list any equipment or machinery that needs to be shut down in an emergency and who has responsibility for doing so.
4. Consider asking Human Resources to update contact lists. They are generally in a better position than other administrative personnel when it comes to having access to employee contact phone numbers—and they also know when employees leave or move to different positions.
5. Have each department review all pertinent parts of the plan to ensure accuracy and workability. Often, if one person is charged with writing the plan, he or she will write something that looks good on paper but works poorly in real life.

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6. Conduct periodic drills to ensure employees know what to do in an emergency. Be sure to critique the drills afterward to fine tune your plan (for example, did employees recognize the evacuation alarm, did they turn off machines or equipment required to be turned off, and did they evacuate in an orderly and timely fashion?).

7. Be sure to include provisions in your plan for visitors to your facility: How do you account for their whereabouts and who is in charge of ensuring they know how to evacuate?

8. If necessary, include plan provisions regarding who has authority to allow employees back into buildings or restart operations.

9. Since emergencies don't always happen on Tuesdays at 10 a.m., when writing your plan, be sure to take into account variations in emergency procedures that account for differences in shifts or days of the week (for example, fewer or no staff at your facility, fewer supervisors, darkness, etc.).

10. List in the plan the locations of special equipment (for example, special protective suits to be used in the event of a chemical release) and emergency supplies (food, water, etc. in the event employees are stranded at your facility), and remember to do periodic inventories to ensure they are where you say they are and that equipment is in working order.

Source: Safety.BLR.com

New Federal Lead Renovation, Repair and Painting Requirements

To further protect children from exposure to lead-based paint, the U.S. Environmental Protection Agency (EPA) has issued new rules for contractors who renovate or repair housing, child-care facilities or schools built before 1978. Under the new rules, workers must follow lead-safe work practice standards to reduce potential exposure to dangerous levels of lead during renovation and repair activities.

“While there has been a dramatic decrease over the last two decades in the number of children affected by lead-poisoning, EPA is continuing its efforts to take on this preventable disease,” said James Gulliford, EPA’s Assistant Administrator for Prevention, Pesticides and Toxic Substances. “These new rules will require contractors to be trained and to follow simple but effective lead-safe work practices to protect children from dangerous levels of lead.”

The “Lead: Renovation, Repair and Painting Program” rule, which will take effect in April 2010, prohibits work practices creating lead hazards. Requirements under the rule include implementing lead-safe work practices and certification and training for paid contractors and maintenance professionals working in pre-1978 housing, child-care facilities and schools. Beginning October 22, 2009, contractors must take EPA-accredited training before beginning renovation, repair or painting projects as defined in the RR&P rule.

The rule covers all rental housing and non-rental homes where children under six and pregnant mothers reside. The new requirements apply to renovation, repair or painting activities where more than six square feet of lead-based paint is disturbed in a room or where 20 square feet of lead-based paint is disturbed on the exterior. The affected contractors include builders, painters, plumbers and electricians. Trained contractors must post warning signs, restrict occupants from work areas, contain work areas to prevent dust and debris from spreading, conduct a thorough cleanup, and verify that the cleanup was effective.

Lead is a toxic metal that was used for many years in paint and was banned for residential use in 1978. Exposure to lead can result in health concerns for both children and adults. Children under six years of age are most at risk because their developing nervous systems are especially vulnerable to lead’s effects and because they are more likely to ingest lead due to their more frequent hand-to-mouth behavior. Almost 38 million homes in the United States contain some lead-based paint, 24 million have deteriorated paint. Four million children live in these homes. The major source of lead poisoning is lead paint and lead-contaminated dust from deteriorated paint. These new requirements are key components of a comprehensive effort to eliminate childhood lead poisoning.

For more information on this new program visit: www.epa.gov/lead.

California Stop Notices & Payment Bonds On Public Works

Did you know that...

- Every general contractor who is awarded a public job in excess of \$25,000 in California is required to file a payment bond to guarantee payment to subcontractors and material suppliers who contribute to the public work. Any person who would be entitled to serve a stop notice on a public work is entitled to make a claim against the general contractor's payment bond.
- A stop notice and a payment bond claim are not mutually exclusive. A subcontractor or material supplier may pursue both remedies.
- A subcontractor or material supplier who is paid from a payment bond may be entitled to recover attorneys' fees incurred in pursuing its claim.
- The stop notice is an effective tool in ensuring that subcontractors and material suppliers are promptly paid for their services, equipment and materials, especially on public projects where mechanics' liens are not available.



- The stop notice on a public work constitutes a lien on the general contractor's fee held by the public agency. The stop notice has the effect of forcing the public entity to withhold money that is due to the general contractor in an amount sufficient to pay the claimant.
- Any person who would be entitled to record a mechanics' lien but for the public nature of the work may serve a stop notice on the public entity responsible for the work. If a subcontractor or material supplier is not promptly paid, it may at any point thereafter initiate the stop notice procedure.
- The public agency can require the general contractor to file a corporate surety bond in an amount of 1 1/4 times the amount of the stop notice claim. This permits the subcontractor or material supplier to proceed against the bond directly while at the same time preventing disruption in completion of the public work.

This information is not intended to provide or replace legal assistance of any kind and is for educational purposes only.

Source: Easy Law Construction Notices, www.easylawinc.com



Here's a Cutting Edge to Avoid

Amputations are all too common injuries for employees who work on or around machines. Because of these and other sometimes gruesome machine dangers, OSHA has extensive regulations for machine guarding in 29 CFR 1910 Subpart O Machinery and Machine Guarding, 1910.211 through 219.

The basic rule states that "one or more methods of machine guarding" must be provided to protect the operator and nearby workers from such hazards created by the point of operation, nip points, rotating parts, flying chips, and sparks.

OSHA requires operators and maintenance personnel to receive training for certain types of machines, including woodworking machines and power presses. Operators of machines with presence sensing device initiation (PSDI) must be trained at least annually in how to use the machine in PSDI mode. This training should include:

- Areas of the machine most likely to cause injury
- Description, purpose, and functions of machine guards
- Importance of ensuring that machine guards are in place and working properly
- Hazards of using machines

Many types of machinery expose workers to risk of serious injury, including:

- Saws, presses, conveyors, and bending, rolling, or shaping machines
- Powered and nonpowered hand tools, forklifts, doors, and trash compactors

The danger areas on machinery include:

- The point of operation where the cutting, punching, shearing, or bending of material takes place
- The power transmission apparatus, which can grab and injure body parts
- The operating controls and moving parts

OSHA rules specify which guards to use with different machines. Train employees to recognize guards and report when they are not working properly.

- Fixed guards enclose danger areas and cannot be removed easily.

- Interlocked safeguards automatically shut off and stop the machine or apparatus if they are removed.
- Some guards adjust to the size of the material being work on.
- Photoelectric presence-sensing devices (often called light curtains) shut down the machine if a worker's hand or other body part enters the danger area.
- Restraint and pull-back devices are attached to the operator's hand, wrist, or arm, and make it impossible to reach into a danger area.
- Two-hand control devices make it necessary for both of a worker's hands to be used to operate the machine.
- Pressure-sensitive devices are also designed to act as emergency stops if an operator gets too close to a danger zone.

Finally, warn employees not to take any of these unsafe actions around machinery:

- Reaching around, under, over, or through guards into hazardous areas
- Removing, deactivating, or bypassing guards
- Reaching into equipment to remove stuck or jammed material
- Failing to follow lockout/tagout procedures
- Not following electrical safety procedures
- Not wearing appropriate personal protective equipment
- Attempting to operate or repair machines without proper training
- Not reading manufacturer's manuals or following their instructions
- Feeding machine by hand

Why It Matters ...

- Employees who work with or around machines suffer approximately 18,000 nonfatal injuries every year, including amputations, lacerations, and crushing injuries.
- More than 800 workers die from machine injuries.
- Amputation, in particular, is one of the most severe and crippling types of workplace injuries, and often results in permanent disability.

Source: Safety.BLR.com

Ten-Year Statute Of Limitations On Construction Defect Actions

By Sam K. Abdulaziz
Abdulaziz, Grossbart & Rudman

Windscape LLC (“Windscape”), a developer, contracted with Western Products Co. (“Western”) wherein Western would install windows for an apartment complex. Construction of the apartments ended in 1991.

Windscape agreed to sell the apartments to Pine Terrace Apartments LP (“Pine Terrace”). In May 2003, escrow on the sale closed.

After the sale, Pine Terrace became aware of various defects, which caused damage to the apartments. It found that an absence of flashing in the windows caused the damage and that Windscape’s managing member, Eugene Andrade, knew of the defect. On May 17, 2004, Pine Terrace sued Windscape alleging that the defective work amounted to willful misconduct. Windscape cross-complained against Western and other subcontractors with an allegation of willful misconduct. The subcontractors argued that the ten-year statute of limitations in the Code of Civil Procedure barred the claim. The

Superior Court agreed and dismissed the action against the subcontracts. Windscape appealed.

The Appellate Court reversed the case and remanded it for a different decision.

The Appellate Court held that Section 337.15 states, “no action for latent construction defects may be commenced more than ten years after substantial completion of the construction project.” However, this bar does not apply to actions arising out of willful misconduct. Since the complaint was based on willful misconduct, the exemption of the statute of limitations cannot be applied.



Immigration Updates

I-9 Forms: U.S. Citizenship and Immigration Services (USCIS) announced last week that the Employment Eligibility Verification form I-9 (Rev. 02/02/09) currently on the USCIS Web site and the [CEA website](#) will continue to be valid for use beyond June 30, 2009.

USCIS has requested that the Office of Management and Budget (OMB) approve the continued use of the current version of Form I-9. While this request is pending, the Form I-9 (Rev. 02/02/09) will not expire.

USCIS will update Form I-9 when the extension is approved. Employers will be able to use either the Form I-9 with the new revision date or the Form I-9 with the 02/02/09 revision date at the bottom of the form.

Why Employers Should Care: Los Angeles-based clothing manufacturer American Apparel, Inc has received notice from US Immigration and Customs Enforcement (ICE) that it has been unable to verify the employment eligibility of approximately 200 current American Apparel employees because of discrepancies in the employees' records, according to the manufacturer in a July 1 press release. Additionally, ICE notified the company that based upon its review of government databases, approximately 1,600 other current employees do not appear to be authorized to work in the United States .

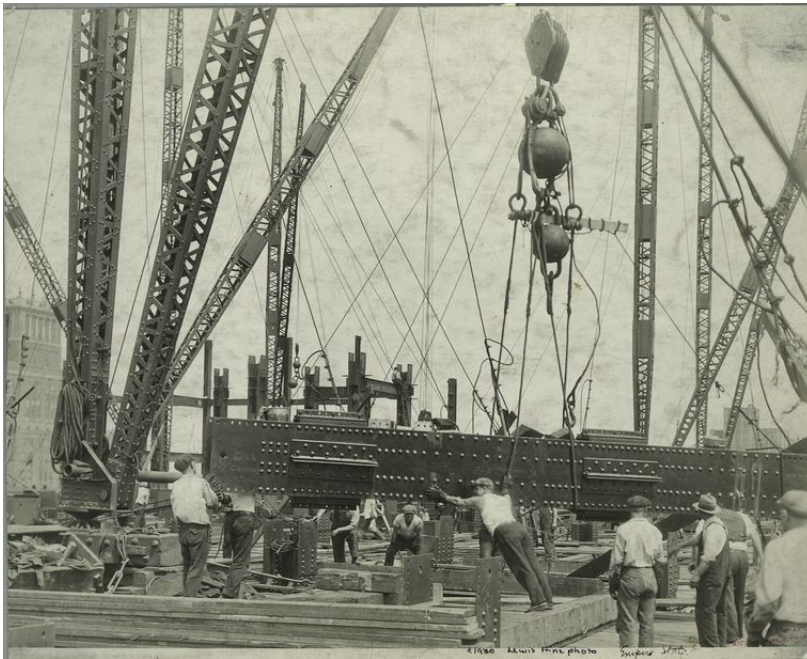
The notifications were the result of a previous inspection that ICE conducted on January 3, 2008, to determine American Apparel's compliance with

Immigration Reform and Control Act of 1986. The company stated that it has cooperated fully with the ICE inspection and has previously indicated in its filings with the Securities and Exchange Commission that results of the inspection were still pending. ICE's notice provided no indication that American Apparel knowingly or intentionally hired any undocumented workers.

On the same day as American Apparel's press release, ICE launched a new audit initiative, issuing Notices of Inspection to 652 businesses nationwide. The notices

alert business owners that ICE will be inspecting their hiring records (that means I-9 forms) to determine whether or not they are complying with employment eligibility verification laws and regulations.

Source: California Employers Association



Historical construction photos of New York City buildings provided by the NYPL Digital Gallery, The New York Public Library.

