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GSBE's News to Use

IRS Announces 2010 Standard Mileage Rates

The Internal Revenue Service issued the 2010 optional standard mileage rates used to calculate the deductible costs of operating an automobile for business, charitable, medical or moving purposes.

Beginning on Jan. 1, 2010, the standard mileage rates for the use of a car (also vans, pickups or panel trucks) will be:

- **50 cents per mile for business miles driven**
- **16.5 cents per mile driven for medical or moving purposes**
- **14 cents per mile driven in service of charitable organizations**

The new rates for business, medical and moving purposes are slightly lower than last year's. The mileage rates for 2010 reflect generally lower transportation costs compared to a year ago.

The standard mileage rate for business is based on an annual study of the fixed and variable costs of operating an automobile. The rate for medical and moving purposes is based on the variable costs as determined by the same study. Independent contractor Runzheimer International conducted the study.

A taxpayer may not use the business standard mileage rate for a vehicle after using any depreciation method under the Modified Accelerated Cost Recovery System (MACRS) or after claiming a Section 179 deduction for that vehicle. In addition, the business standard mileage rate cannot be used for any vehicle used for hire or for more than four vehicles used simultaneously.

Taxpayers always have the option of calculating the actual costs of using their vehicle rather than using the standard mileage rates.

[Revenue Procedure 2009-54](http://www.irs.gov/pub/irs-drop/rp-09-54.pdf) (www.irs.gov/pub/irs-drop/rp-09-54.pdf) contains additional details regarding the standard mileage rates.

Source: www.irs.gov



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ASSE Approves Confined Spaces Standard

Hazards associated with entering and working in confined spaces are capable of causing serious injuries or death. Because of dangers, the American Society of Safety Engineers (ASSE) has recently approved the new American National Standards Institute (ANSI) confined spaces consensus standard.

ASSE says the purpose of the revised standard (ANSI/ASSE Z117.1-2009, Safety Requirements for Confined Spaces) is to “provide for the minimum performance requirements necessary in developing and implementing a comprehensive confined space program for the protection of workers.”

The standard, which becomes effective on November 2, establishes minimum safety requirements for entering, exiting, and working in confined spaces at normal atmospheric pressure. It does not, however, apply to underground mining, tunneling, caisson work, intentionally inert confined spaces, or other similar tasks that have their own established national consensus standards.

You can get more information or obtain a copy of the standard at the ASSE website.

Hazardous Atmospheres a Major Concern

After reviewing 200 confined space fatality cases in preparation for revising the standard, ASSE’s Z117 Accredited Standards Committee noted that approximately 65 percent of incidents with fatalities involved atmospheric contamination.

OSHA says that hazardous atmospheres encountered in confined spaces can be divided into four distinct categories:

- **Flammable**
- **Toxic**
- **Irritant and/or Corrosive**
- **Asphyxiating**

Flammable gases—such as acetylene, butane, propane, hydrogen, methane, natural or manufactured gases, or vapors from liquid hydrocarbons—can be trapped in confined spaces. By-products of work

procedures can also generate flammable or explosive conditions within a confined space, as can chemical reactions. Combustible dust is also a concern.

Toxic substances in confined spaces can cover the entire spectrum of gases, vapors, and fine airborne dust. Sources of toxic atmospheres may include manufacturing processes, stored product, or an operation performed in the confined space. Loading, unloading, formulation, production, and mechanical and/or human error may also produce toxic gases that are not part of the planned operation. Buildup of carbon monoxide is another serious concern. There have been fatal accidents in sewage treatment plants due to decomposition products and lack of ventilation in confined spaces. Decomposition can also cause silo gas in grain storage elevators, and carbon monoxide can form as a by-product in welding operations.

Irritant and/or corrosive atmospheres in confined spaces can be a particularly insidious hazard. Prolonged exposure to irritant and/or corrosive vapors in a confined space may produce little or no evidence of irritation. Workers are usually unaware of any increase in exposure. And that’s very dangerous, because entrants can be overcome before recognizing the problem.

Asphyxiating atmospheres in confined spaces may be the result of either consumption or displacement of oxygen. The consumption of oxygen takes place during combustion of flammable substances, as in welding, heating, cutting, and brazing. A more subtle consumption of oxygen occurs during bacterial action, as in the fermentation process. Oxygen may also be consumed during chemical reactions, as in the formation of rust on the exposed surface of the confined space (iron oxide). The number of people working in a confined space and the amount of their physical activity will also influence the oxygen consumption rate. The second factor in oxygen deficiency is displacement by another gas. Examples of gases that displace air and, therefore, reduce the oxygen level are helium, argon, and nitrogen. Carbon dioxide may also displace air and can occur naturally in sewers, storage bins, wells, tunnels, wine vats, and grain elevators. While it is desirable to maintain the atmospheric oxygen level at 21 percent by volume, the

body can tolerate some deviation from this ideal. But when the oxygen level falls below 17 percent, entrants can die of asphyxiation if they are not promptly rescued.

Training Is the Key to Preventing Accidents

To prevent confined spaces accidents and fatalities, whether from dangerous atmospheric conditions or

some other confined spaces hazard (and there are plenty of others), you have to be sure your confined spaces entrants are well trained. Effective training permits them to work safely and deal successfully with any emergency situations they may encounter inside the space.

Source: www.Safety.BLR.com

Safe or Sorry? Which Will Your Confined Spaces Entrants Be?

OSHA doesn't want your confined spaces entrants going in without the knowledge and experience they need for protecting their safety—and neither do you. The best way to keep your entrants safe is to train them well.

OSHA's permit-required confined spaces standard for general industry (29 CFR 1910.146) requires you to train entrants so that they can effectively:

- **Identify hazards** that may be faced during entry, including information about the symptoms and consequences of hazardous exposures.
- **Use required equipment** to test, monitor, and ventilate the space; communicate with others working within and outside the space; and protect themselves from exposure to dangers within the space (for example, by using PPE such as respirators and harnesses attached to lifelines).
- **Communicate effectively** with the attendant outside the space as necessary to enable the attendant to monitor entrant status and to alert entrants of the need to evacuate the space.
- **Alert attendants** whenever entrants:
 - Recognize any warning sign or symptom of exposure to a dangerous situation; or
 - Detect a hazardous condition for which evacuation may be required.
- **Exit from the permit space** as quickly as possible whenever:
 - An order to evacuate is given by the attendant or the entry supervisor;
 - The entrant recognizes any warning sign or symptom of exposure to a dangerous situation;

- The entrant detects a hazardous condition that requires evacuation; or
- An evacuation alarm is activated.

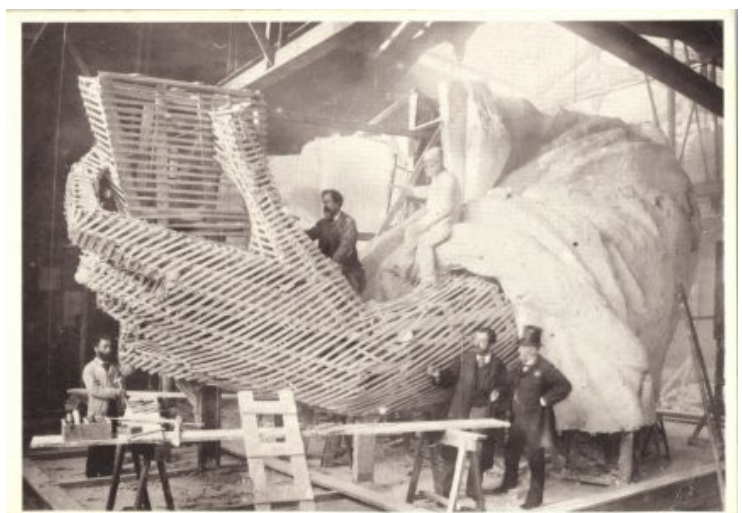
When to Train, When to Retrain

According to paragraph (g) of the standard, you must train entrants before they're first assigned entry duties and whenever:

- There's a change in their assigned duties;
- There's a change in permit space operations that presents a hazard about which an entrant has not previously been trained; or
- You have reason to believe that deviations from the required permit space entry procedures are occurring or that there are inadequacies in an entrant's knowledge or use of these procedures.

Your training program must establish the entrant's proficiency in the duties required by the standard, and you must certify that the required training has been accomplished. The certification must include the employee's name, the signatures or initials of the trainers, and the dates of training.

Source: www.Safety.BLR.com



Cold Weather Hazards: Are Your Workers at Risk?

Winter is here. For the next few months, many workers will be required to work briefly or for sustained periods in cold weather conditions and will face the special hazards that such work entails.

The two main health hazards of overexposure to cold weather are frostbite and hypothermia.

Frostbite occurs when body tissues freeze. Most often, frostbite affects fingers, toes, nose, cheeks, and ears. Frostbite can cause permanent tissue damage and loss of movement in affected parts.

Hypothermia occurs as a result of exposure to cold, which can send body temperatures down to dangerously low levels. Hypothermia can even occur in above-freezing temperatures when it's windy, or when a person is exhausted or wearing wet clothes. Untreated, hypothermia can lead to unconsciousness and death.

Safety Hazards, Too

There are other safety hazards involved with working in the cold. For example, the cold can affect the function of hands and fingers so that a worker loses feeling and dexterity, making it difficult to handle tools, equipment, and materials, thereby increasing the chance of an accident.

The cold can also affect a worker's mood. Workers who are cold and uncomfortable may be less alert to hazards or may rush to get a job done so that they can get inside and get warm.

Windchill Factor

Canadians know a lot about the cold. And, according to Canada's largest union, the Canadian Union of Public Employees (CUPE), one of the keys to working safely in the cold is taking the windchill factor into account.

CUPE says that the windchill factor can account for as much as 80 percent of total body heat loss on a cold day.

"Different combinations of air temperature and wind speed can present the same hazards. For example,



when the air is calm and the temperature is 1°C [about 34° F], the body will feel cool. The same temperature with 40 km/h [about 25 mph] winds can produce bitter coldness. The wind blows away the thin layer of air that acts as an insulator between the skin and the outside air."

So on windy, cold days, the risk to employees working outdoors increases dramatically. And it's a risk that workers might not even be aware of until it's too late.

Pay Special Attention to Work Clothes

Wearing the right clothing is essential to protect against cold weather and to prevent heat loss. According to CUPE, the cold weather work clothes should:

- **Provide high insulation.**
- **Allow the escape of moisture from within.**
- **Resist wetting from outside.**
- **Shed snow.**
- **Have a means of varying insulation and air flow.**
- **Not restrict movement.**
- **Have minimum weight and bulk.**
- **Be easy to put on and take off.**
- **Be durable.**

CUPE recommends the following cold weather clothing system to its members:

Underwear. Cotton shirt and shorts should be worn under thermal underwear. Long underwear in a two-piece style is better than one single garment. The fit should be loose so that blood vessels are not constricted.

Socks. High wool socks are recommended. Socks should encourage evaporation of sweat. Stretch socks restrict circulation.

Pants. Wool and quilted pants or lined thermal types are recommended. Pants should be roomy and worn with suspenders rather than a belt, because belts are constricting.

Boots. The best boots are felt-lined, rubber-bottomed, and leather-topped with removable insoles. Footwear should be waterproof and reach high up the leg.

Shirt. A wool shirt (cotton or synthetic shirt worn under for those allergic to wool) should be worn over underwear tops and suspenders with shirttail worn outside pants to aid ventilation.

Head covers. Wool knit caps or hat liners that extend down the back of the neck should be worn. A balaclava (ski mask) provides further face protection.

Face masks. Workers who can't afford reduced vision on the job can wear face masks. Face masks should be removed periodically to check for frostbite.

Gloves and mittens. Mittens offer the best protection but limit finger movement. On very cold days, it's wise to carry both.

Source: www.Safety.BLR.com

Arbitration (Part One)

By Sam K. Abdulaziz
Abdulaziz, Grossbart & Rudman

As most of you should know, arbitration has become very prominent in construction disputes. Many, if not most of the contracts include an arbitration provision. One of the greatest benefits of arbitration is that you should be able to get an arbitrator or arbitrators who understand construction law. I was personally involved in a civil litigation and typically, just before the trial begins, the trial judge will call the parties into chambers to discuss certain matters before the trial begins. I had one trial judge who asked me "I see you subpoenaed the plans and specifications. Why did you do that? They are so big and they are so dirty." I then wondered how such a trial judge could possibly handle a construction case given the fact that the judge didn't understand the importance of the plans and specifications.

In addition to arbitration pursuant to state court, arbitration in the Federal Courts are called the Federal Arbitration Act (FAA). Among other things, the FAA provides expedited judicial review to confirm, vacate, or modify arbitration awards. A Federal Court must confirm an arbitration award unless it is vacated, modified, or corrected in accordance with the federal

law. The federal law lists grounds for vacating an award including where the award was procured by "corruption, fraud, or undue means" or where the arbitrators were guilty of misconduct, or exceeded their powers. Some of the grounds for modifying or correcting an award, include "evident material miscalculation" "evident material mistake" and "imperfections in a matter of form not affecting the merits."

Under California law, there is no such expedited judicial review unless the arbitration provision in the contract calls for it. Here, the court will follow what the parties agree to in the contracts. Under California law, an arbitration award can be modified or corrected in accordance with the arbitration provision in the contract, or if there is no provision that applies, in accordance with the law which is as follows:

Code of Civil Procedure section 1285 states "Any party to an arbitration in which an award has been made may petition the court to confirm, correct or vacate the award."

There are very specific rules that are required in this procedure. There are also restrictions and they are very hard to overturn.

Please see next quarter's issue for the specific laws dealing with changing an arbitration award in California.

Amended: §3400 Medical Services and First Aid

Effective date: September 26, 2009

This revision requires all employers to make effective advance plans for the delivery of emergency medical services by providing one or a combination of the following:

- 1) suitable communication system with which to summon off-site medical services.
- 2) on-site medical treatment facilities,
- 3) appropriate means to transport injured or ill employees to a medical treatment facility,

For further details go to the link below:

http://www.dir.ca.gov/oshsb/first_aid.html

Source: State Compensation Insurance Fund

California Amends Pay Stub Rules

The state has amended existing law that requires each state agency, at the time of each payment of salary or wages, to furnish an employee, at his or her discretion, an itemized statement in writing or electronically showing all deductions made from salary or wages. The new law will require that the statement be provided electronically to each employee who has authorized the direct deposit by electronic fund transfer of his or her salary or wages, unless the employee has asked to receive a paper version of the statement. (S.L. 37, Laws 2009, enacted October 11, 2009.)

No changes have been made for all other employers. As a reminder, section 226 of the Labor Code requires every employer to furnish each of its employees an itemized written statement semimonthly or at the time of each wage payment, regardless of whether wages are paid by check or by cash. The statement can be a detachable part of the check, draft or voucher paying the employee's wages or may be furnished separately. It must be accurate and show the following:

- **Gross wages earned**
- **Total hours worked by each employee (except employees)**
- **The number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis**
- **All deductions**
- **Net Wages earned**
- **The dates of the period for which the employee is being paid**
- **The employee's name and some form of identification number**
- **The name and address of the legal entity this is the employer**
- **All applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee**

Source: www.employer.org

OSHA's 14-Point Employee Bill of Rights

When you think about workplace safety, you probably focus on the responsibilities that employees have to work safely. But don't forget, they have rights, too.

The Occupational Safety and Health Act gives your employees 14 specific workplace rights. Workers have the right to:

1. **Review copies of appropriate standards, rules, regulations, and requirements that you are required to have available at the workplace.**
2. **Request information about safety and health hazards in the workplace, appropriate precautions**
3. **to take, and procedures to follow if involved in an accident or exposed to hazardous substances.**
4. **Gain access to relevant personal exposure and medical records.**
5. **Request an OSHA inspection if they believe hazardous conditions or violations of standards exist in the workplace.**
6. **Accompany an OSHA compliance officer during the inspection tour, or have an authorized employee representative do so.**
7. **Respond to questions from the OSHA compliance officer.**
7. **Observe any monitoring or measuring of hazardous materials and see the resulting records, as required by OSHA standards.**

8. Review or have an authorized representative review your Log of Work-Related Occupational Injuries and Illnesses (OSHA 300) at a reasonable time and in a reasonable manner.
9. Object to the time frame set by OSHA for you to correct a violation by writing to the OSHA area director within 15 working days from the date you receive a citation.
10. Submit a written request to the National Institute for Occupational Safety and Health for information on whether any substance in the workplace has potentially toxic effects in the concentration being used, and, if requested, have the workers' names withheld from you.
11. Be notified if you apply for a variance from an OSHA standard, and have an opportunity to testify at a variance hearing and appeal the final decision.
12. Have their names withheld from you, by request, if they sign and file a written complaint.
13. Be advised of OSHA actions regarding a complaint, and request an informal review of any decision not to inspect the site or issue a citation.
14. File a complaint if punished or discriminated against for acting as a "whistleblower" under the OSH Act or 13 other federal statutes for which OSHA has jurisdiction, or for refusing to work

when faced with imminent danger of death or serious injury and there is insufficient time for OSHA to inspect.

Employee Responsibilities

Along with rights, of course, come responsibilities. Although OSHA can't directly cite workers for regulatory violations, it does require that each employee "shall comply with all [applicable] occupational safety and health standards and all rules, regulations, and orders issued under the Act."

This means your employees are responsible for:

- Reading the OSHA poster posted in your workplace
- Complying with all applicable OSHA standards
- Following all lawful employer safety and health rules and regulations, and using assigned PPE while working
- Reporting hazardous conditions to a supervisor
- Reporting any job-related injury or illness and seeking prompt treatment
- Cooperating with OSHA compliance officers conducting inspections
- Exercising rights under the OSH Act in a responsible manner

Source: www.Safety.BLR.com

Attorney Provides Cost Saving Tips for the New Year

The start of a new year provides a natural opportunity for employers to implement changes in policies and procedures to reduce exposure to legal claims and make the business more competitive in this challenging economy. Changes introduced at the beginning of a new year seem less abrupt to employees, and are therefore less disruptive to employee morale.

The following ideas will help you reduce liability and expenses!

1. Develop an employee handbook. If you don't have an employee handbook, have one prepared and ready to distribute at the beginning of the New Year. A good employee handbook makes it clear what is expected of employees. It reduces the likelihood of inconsistent application of policies that can lead to discrimination claims, and it ensures that every employee has been

informed of important policies such as the policy against harassment, employment at will and arbitration of disputes.

2. Consider reclassifying employees. If the overtime exempt status of some employees seems questionable, the New Year is a good time to reclassify them as non-exempt. Pay particular attention to office employees who perform mostly routine work, "leads" in manufacturing or service jobs, and retail managers who spend most of their time serving customers. Job descriptions for employees switched to non-exempt status should be revised to more accurately reflect their job duties.

3. Think about implementing pay-for-performance plan. Instead of granting automatic pay raises at the first of the year or on an employee's anniversary date, consider implementing a pay-for-performance plan that ties employee compensation to job performance and/or the overall performance of the company.

4. Revise your vacation policy. You can save money two ways by revising your vacation policy. First, you can impose a waiting period of three or six months before new employees qualify for vacation benefits. This eliminates the need to pay accrued vacation to short-term employees who do not work out. Second, if you have a "paid time off" or "PTO" policy split it into vacation and sick leave. This is because while you must pay accrued vacation to terminating employees, you need not pay unused sick leave unless you combine it with vacation time into "PTO."

5. Eliminate some paid holidays. You can eliminate some paid holidays. Some employers have paid holidays such as Presidents' Day, Martin Luther King Day, Christmas

Eve and the employee's birthday as paid holidays. Employers are not required by law to provide paid holidays, so you can cut back on some of these paid holidays to improve productivity.

6. Review the health plan. Take a look at your employee health plan. Are employees bearing their fair share of the costs of the plan, in terms of premiums and deductible amounts? Is the plan providing adequate coverage, given the cost - or would another plan provide better coverage for the same or lower cost? Consider providing a stipend to employees who may decline coverage under your plan because they can be covered under a spouse's plan.

Source: www.laborlawyers.com

Keep Up Your Guard At Elevated Locations

by Judy Kerry, *State Compensation Insurance Fund*

Not all construction activities are conducted at ground level. Sometimes workers are working at elevated locations and a fall from the elevation can seriously injure or kill a worker. As the second leading cause of fatality in the workplace (homicide is the first), falls must be taken seriously on the job. Employers should implement a fall safety program by identifying potential fall hazards throughout the workplace, training employees, placing guardrails around elevated locations, and - where necessary - providing fall protection equipment.

Guardrails, along with other fall protection measures, can protect workers when they are working at heights. Guardrails not only protect workers from falls they also act as a barrier to prevent tools and equipment from falling on workers below. Wood, metal pipe, structural metal, and other suitable materials may be used to construct guardrails. They should have a smooth top rail, midrail, and posts. The top rail's upper surface should be 42 to 45 inches tall. The midrail needs to be halfway between the top rail and the surface. If overhead clearance does not allow for a 42-inch guardrail, a lower rail should be installed. The ends of the rails must not overhang the terminal posts so much that people or equipment would run into them.

To protect employees from falls, guardrails and their connections and anchorages must withstand a live load

of 20 pounds per linear foot applied outward or downward on the top rail. For heavy stresses from crowds, trucking, and handling materials, additional strength is required by use of heavier stock, closer spacing of posts, bracing, or other methods.

Toeboards are required if the elevated worksite is 6 feet or more above working employees to prevent a hazard from falling tools, material, or equipment. They may be constructed of wood, concrete, metal, or at least 1-inch metal mesh. The toeboard should be 3 1/2 inches tall. The bottom clearance (or gap) must not exceed 1/4-inch.

In buildings, guardrails are required on all open sides of elevated work locations that are more than 30 inches above the floor, ground, or other working areas. The elevated work locations include roof openings, open and glazed sides of buildings, balconies, porches, platforms, runways, and ramps. For other worksites that are not buildings or building structures, guardrails are required on open sides of the elevated work locations that are 4 feet or more above the ground.

There are exceptions to the guarding rules for specific industries and situations. The exceptions have specific guarding requirements or may allow removable guards. If removable guards are used, they should be fixed or tied off to prevent them falling on workers below. For more specific information, see the full text of California Title 8, Sections 3209 and 3210: Standard Guardrails and Guardrails at Elevated Locations.

How Fireproof Is Your Workplace?

On an average day, there are more than 200 workplace fires in this country. Annually, those fires kill hundreds of workers, injure many thousands more, and cost American businesses billions of dollars in damage and lost productivity.

Unfortunately, there are dozens of ways workplace fires can start. You have to be on top of potential fire hazards all the time to make sure that your facility doesn't become part of the statistics.



8 Common Fire Hazards

A successful fire prevention program begins with identifying all potential fire hazards. Here's a list of the most common (you may have others to add to the list):

- **Scrap and trash.** When waste materials are allowed to build up, the danger of fire increases. All it takes is an ignition source to get a fire going, and then the fire has plenty of fuel on which to feed.
- **Dust.** An excess of dust or powder in the air from wood, plastic, or metal operations can, if ignited, cause an explosion. Combustible dust explosions are among the most destructive and deadly types of workplace accidents.
- **Flammable liquids.** Improper handling, storage, or disposal of flammable liquids used in production processes, as fuel sources, or for cleaning operations is a leading cause of workplace fires. And some of those fires can be deadly. For example, a few years back, a release of hydrocarbon liquid and vapor at the BP America oil refinery in Texas City, Texas, ignited. Seconds later, a powerful explosion devastated the facility, leaving 15 dead and about 100 others injured.
- **Combustible materials.** Ordinary combustibles like paper, cardboard, cloth, and wood, or products made from these materials, can create fire hazards as well. Other combustible materials, such as oily rags or other materials soaked with oil, can spontaneously combust if left carelessly lying around.
- **Electrical problems.** Overloaded circuits and outlets, damaged wiring, defective switches, and damaged plugs can all lead to dangerous electrical fires. Electric coffeemakers, fans, space heaters, and other appliances used by employees are also potential fire hazards.
- **Heat and ignition sources.** Any source of heat or ignition (such as a spark) can lead to a fire when combined with combustible or flammable materials.
- **Machinery.** Inadequately lubricated or dirty machinery can also cause fires, as can mechanical defects.
- **Smoking.** Although smoking is most likely prohibited except in designated areas, employees may ignore the rules and sneak a smoke in restrooms or some low-traffic hideaway. A smoker might toss a match or cigarette butt into a wastebasket thinking it's extinguished when, in fact, it's still burning.

Fire Safety Checklist

The next step is to enlist the help of employees in identifying and reporting fire hazards and in taking proper steps to prevent workplace fires.

Here's a checklist of essential fire safety rules from BLR's [Safety Meetings Library](https://www.blr.com/resources/safety-meetings-library) (nl.blr-news.com/c.asp?810784&38f6f608036eced2&10) fire prevention safety meeting that your employees should know about and follow:

- Report any fire hazards anywhere in the facility immediately.
- Use a nonflammable material instead of a flammable one, whenever possible.
- Report any flammable liquid leaks and spills immediately so that the spill can be cleaned up and the leak repaired.
- Store flammable materials only in designated locations and in approved, tightly sealed containers.
- Check container labels and material safety data sheets to make sure you don't store incompatible substances close together.
- Assume an empty container that held a flammable liquid still has flammable residue.
- Ground containers when transferring materials to prevent static electricity from igniting materials.
- Dispose of combustible waste in covered, airtight metal containers.
- Dispose of all waste materials promptly and properly.
- Keep bearings lubricated so they don't run too hot.
- Keep motors and machine tools clean and free of dust and grease that could burn.
- Keep work areas clean and free of dust and lint.
- Keep doorways and passageways clear.
- Don't block fire extinguishers or overhead sprinklers.
- Smoke only in designated areas.

Source: www.Safety.BLR.com

10 Simple Fire Prevention Strategies

We've boiled basic workplace fire prevention down to 10 essential elements. They are:

1. Inspect all areas of your workplace for fire hazards on a regular basis. Pay particular attention to areas where fires are most likely to occur. More than half of industrial fires occur in everyday work areas. Another large percentage occurs in storage areas.

2. Educate employees about fire hazards. Use bulletin boards, memos, and safety meetings to distribute fire prevention information. Update your training whenever new equipment or processes introduce new hazards.

3. Make sure you have the right fire extinguishers for the fire hazards in your workplace. Have maintenance check extinguishers all over your facility regularly to make sure they are properly charged. And remember, OSHA says that if you expect employees to use extinguishers in the event of a fire, you have to train them to handle an extinguisher effectively.

4. Store materials safely. Keep storage areas well ventilated and free of ignition sources. Be particularly careful with flammables.

5. Dispose of wastes promptly and correctly. Don't allow combustible waste materials to build up. Consider the ease of ignition when disposing of other materials as well.

For example, oily rags should be disposed of in closed metal containers.

6. Emphasize good housekeeping. All work areas should be clean and free of fire hazards.

7. Make sure ventilation systems operate effectively to remove flammable vapors, gases, and combustible dust from the air.

8. Service machines regularly. Set up an adequate maintenance schedule, and make sure employees follow it.

9. Pay careful attention to electrical safety. Check electrical circuits, outlets, wires, and plugs regularly so that an electrical problem does not start a fire. If you allow employees to use coffeemakers, fans, and other appliances, make sure they are used safely and turned off at the end of the shift.

10. Enforce fire safety rules. Make sure employees obey your no smoking policy and other fire safety rules. Be prepared to discipline rule breakers.

Source: www.Safety.BLR.com

Mechanic's Lien Form to Change Effective January 2011

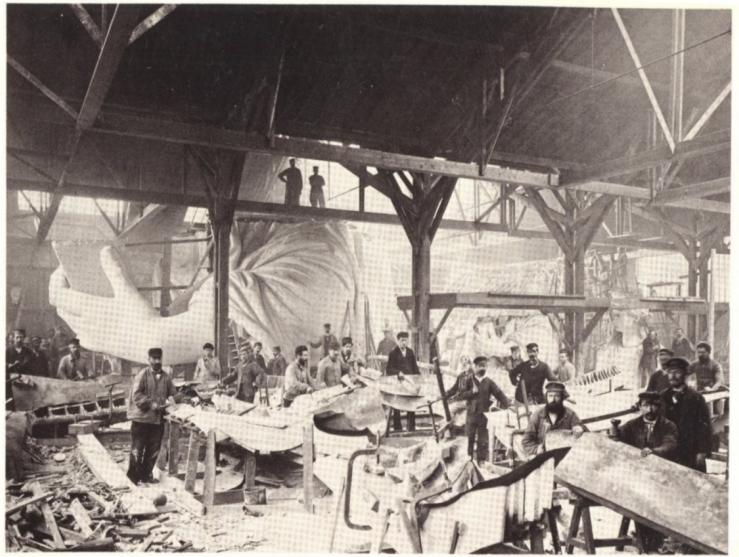
By Bruce D. Rudman,
Abdulaziz, Grossbart & Rudman

On behalf of various subcontractor associations and groups, the Law Offices of Abdulaziz, Grossbart & Rudman have been participating in the law-making process, both before the Legislature and the California Law Revision Commission, concerning certain overhauls of the mechanic's liens laws. While the California Law Revision Commission had been working on a global change to all of the mechanic's lien, stop notice, and payment bond statutes, there have been some interim changes that have been enacted into law.

In particular, the Governor recently signed AB 457, which makes some changes to the mechanic's lien form itself, including the requirements on the lien, and now requires the recording of a separate document known as a "lis pendens" which simply means "notice of pending litigation" following the filing of a lawsuit. Most importantly, the claimant will also need to serve a copy of the lien on the owner at the same time it is sent to be recorded so that the owner can take action if necessary to free their property from the lien.

As an overview, the mechanic's lien requirements for decades have simply been a signed and verified statement of the claimants demands, after deducting all payments and credits from the amount of work that has been performed, and includes: the name of the owner; a statement of the kind of labor, services, equipment or materials furnished by the claimant; the name of the person who employed the claimant or to whom the labor, services and equipment were provided; and a sufficient description of the property location.

As of January 1, 2011, a mechanic's lien will also be required to include a proof of service affidavit showing that the mechanic's lien has been mailed by certified mail, return receipt requested, to: (1) the owner's residence or place of business, or (2) at the address shown on the building permit on file with the building



department, or (3) at any other address allowed under the preliminary notice statute. If the owner cannot be served in that manner, then the notice of lien can be served by certified mail to the construction lender or to the prime contractor. If the lien is not served as required, the lien will be unenforceable as a matter of law.

Another important change is that the lien now also must have a notice of mechanic's lien that reads as follows:

"NOTICE OF MECHANIC'S LIEN

ATTENTION!

Upon the recording of the enclosed MECHANIC'S LIEN with the county recorder's office of the county where the property is located, your property is subject to the filing of a legal action seeking a court-ordered foreclosure sale of the real property on which the lien has been recorded. That legal action must be filed with the court no later than 90 days after the date the mechanic's lien is recorded. The party identified in the mechanic's lien may have provided labor or materials for improvements to your property and may not have been paid for these items. You are receiving this notice because it is a required step in filing a mechanic's lien foreclosure action against your property. The foreclosure action will seek a sale of your property in order to pay for unpaid labor, materials, or improvements provided to your

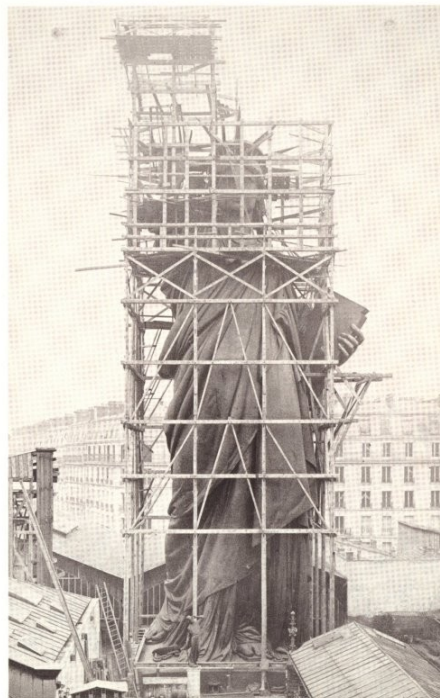
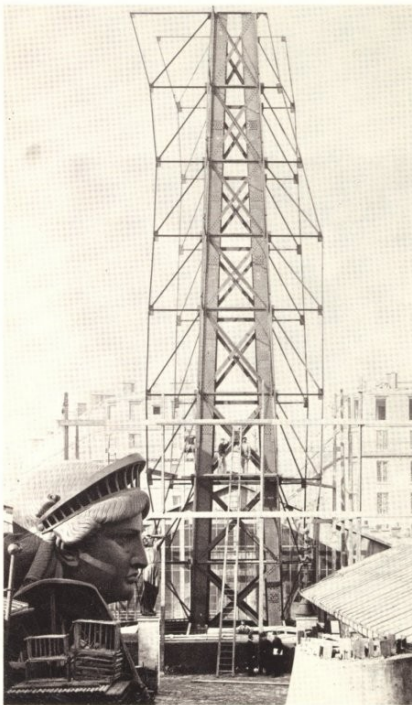
property. This may affect your ability to borrow against, refinance, or sell the property until the mechanic's lien is released.

BECAUSE THE LIEN AFFECTS YOUR PROPERTY, YOU MAY WISH TO SPEAK WITH YOUR CONTRACTOR IMMEDIATELY, OR CONTACT AN ATTORNEY, OR FOR MORE INFORMATION ON MECHANIC'S LIENS GO TO THE CONTRACTORS' STATE LICENSE BOARD WEB SITE AT www.cslb.ca.gov."

The other significant change occurs after a lawsuit on the mechanic's lien is filed in the Superior Court. After the filing of the lawsuit to foreclose on the lien, the Plaintiff must record a notice of pendency of the proceedings (known as a lis pendens) on or before 20 days after the filing of the of the mechanic's lien foreclosure action. The statute goes on to provide that only from the time of

recording a lien pendens shall a purchaser or encumbrancer of the property (typically the lender) be deemed to have notice of the lawsuit. While this Amendment is not as harsh of prior versions of the Legislation (which could deem the entire mechanic's lien action to be void), it does appear that a subsequent title insurer, lender, or bona fide purchaser, would not be subject to the mechanic's lien if the notice of lis pendens is not recorded. That means if the owner does anything with their property (borrow against it or transfers it) while the lien is pending, the failure to record the lis pendens could be fatal to your right to collect.

As always, consult with a lawyer if you have any concerns. Again, these changes do not take place until January 1, 2011.



Construction photos of the Statue of Liberty (1875 - 1884) provided by NYPL Digital Gallery, The New York Public Library, www.nypl.org