

PERSPECTIVES ON THE CONSTRUCTION INDUSTRY

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OSHA Issues Comprehensive Crane Safety Rules

The Occupational Safety and Health Administration (OSHA) has issued a final rule covering the use of cranes and derricks in construction. The new standard includes detailed requirements relating to the safe operation of cranes and derricks and new mandates regarding crane assembly, operation, and inspections. It also outlines new operator training and certification requirements. Nearly all the requirements became effective November 8, 2010. Delayed effective dates, ranging from one to four years, apply to some provisions.

Equipment Covered by the New Rule

Almost all power-operated equipment used to hoist, lower, and horizontally move a suspended load is covered under the new rule. Exceptions include:

- ✓ Aerial lifts.
- ✓ Forklifts, except when they are used to raise, lower, and horizontally move a suspended load through the use of a hook or winch.
- ✓ Articulating/knuckle-boom truck cranes when used for material delivery and transfer purposes from the truck crane to the ground. They will not be excluded from the rule when they are used to hold, support, or stabilize any material, or when the material is a pre-fabricated component, a component

of a systems-engineered metal building, or a structural steel member.

Certification and Qualification of Operators

OSHA's new rule mandates that operators of most types of cranes be certified before operating any equipment covered under the rule. Employers must pick up any costs involved in training employees to become qualified and certified crane operators. City or state crane licensing requirements must meet the rule's minimum criteria.

Employers that do business in areas without licensing requirements can certify that their operators meet OSHA's requirements in one of two ways. Employees can be certified by a nationally recognized accredited crane operator testing agency. Alternatively, employers can qualify operators through their own testing program. Any such employer-sponsored program must use tests developed by an accredited crane operator testing agency or approved by an auditor who is certified by an accredited crane operator testing organization.

Other Important Requirements

In addition to the certification and qualification requirements, the new rule imposes several important requirements on all companies that use cranes and derricks.

Ground Conditions: Contractors must carefully inspect ground conditions before assembling and using a crane. Surface areas on which the crane will stand must be firm, drained, and properly graded.

Assembly: Employers must use a qualified rigger for rigging operations during the assembly and disassembly of the crane.

Inspections: Cranes and derricks must be inspected when:

- ✓ The equipment has had modifications or additions that affect its safe operation.
- ✓ The equipment was repaired or adjusted in ways that relate to its safe operation.
- ✓ The equipment has been completely assembled.
- ✓ Each shift starts (with additional monthly and annual inspections).
- ✓ The severity of use or conditions creates the reasonable probability of damage.

Action Plan

The new rule's more than 1,000 pages of regulations are complex. Contractors need to determine the impact on their operations and develop an action plan for compliance. Industry organizations, as well as crane manufacturers and lessors, may be able to offer advice and strategies for compliance. ✓

Do You Need Contractor's Pollution Liability Coverage?

Contractors considering projects that involve excavation or redevelopment should carefully examine the proposed site for environmental hazards. Extensive due diligence is a must irrespective of the size or dollar value of the proposed project. Whether the project is relatively straightforward, such as demolishing an old gas station to make way for a mini mall,

“Detailed inspections sometimes fail to detect hazardous materials. . . .”

or more complicated, such as developing an old factory and warehouse complex and turning it into a showcase of new townhomes and apartments, you should ensure that any environmental inspection of the property is comprehensive and complete.

Potential Financial Hazards

Detailed inspections sometimes fail to detect hazardous materials such as

petroleum derivatives, paints, asbestos, heavy metals, and cancer-causing industrial by-products. Your firm may be held liable if its actions result in the release of these materials into rivers, lakes, or groundwater and for certain illnesses that result from exposure to these toxins. These are compelling reasons why you should carefully review your firm's insurance policies.

Your general liability insurance policy may exclude pollution coverage or provide only limited coverage. A contractor's pollution liability (CPL) policy may offer your firm the financial protection it needs.

What To Look For

As with any insurance policy, CPL policies vary in their cost, coverage, exclusions, and endorsements. The following are some questions to ask when reviewing CPL policies:

- ✓ Will the policy cover all operations or does it identify only specific operations it will cover?
- ✓ What are the policy's liability limits?
- ✓ What exclusions and endorsements are in the policy? For example, how does it define pollutants and does it cover issues related to asbestos or mold?
- ✓ Is defense, bodily injury, and property damage coverage included in the policy?
- ✓ Does the policy offer the option of an endorsement that covers any issues that arise from transporting or disposing of hazardous or polluting material?
- ✓ Will the policy cover your firm's equipment storage and maintenance and shop facilities?

Contractors involved in excavation or redevelopment work should look into including CPL insurance as part of the company's overall risk management plan. If we can help in this review, please contact us. ✓

Getting Ready for Additional 1099 Reporting

One provision in the recently enacted health care reform law that many business owners may have overlooked imposes additional tax reporting requirements on businesses, including contractors. The provision will require businesses to issue Form 1099s to all vendors, both incorporated and unincorporated, to which they pay \$600 or more annually for equipment, materials, supplies, and other goods. Currently, businesses are only required to issue a Form 1099 for payments of non-employee compensation, interest, rents, royalties, etc., made to unincorporated payees.

What To Expect

The new provision will be implemented in 2012. In addition to keeping detailed records regarding payments, companies

will face the burden of having to determine and include on the Form 1099 the Taxpayer Identification Number (TIN) of the vendors they deal with.

Supporters of the new requirement have said that it could raise an additional \$17 billion to help cover the costs of the new health care law. However, construc-

tion industry associations oppose the new requirements and business owners contend that the cost of complying with the new requirement will place additional pressure on their profitability.

The good news is that the provision may be changed before 2012. We will keep you posted on any future developments. ✓

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Best Practices for the Construction Industry

Contractors have had their hands full trying to weather the economic downturn. Regardless of your company's current financial health, you may be able to benefit from implementing construction industry best practices.

Always Analyze Bidding Risk

Before submitting a bid on a project, take the time to examine carefully how the project will affect your firm's financial resources, liability exposure, personnel levels, and scheduling needs. You should always:

- ✓ Look into the prospect's payment history.
- ✓ Project cash flows to identify the jobs that could impact your firm's liquidity. If you anticipate cash flow problems, start negotiating favorable terms with your suppliers in advance.
- ✓ Review your staffing levels. Do you have enough people to handle the project you are bidding on? The ability of your project manager to deal with personnel constraints very often dictates the success or failure of specific projects.
- ✓ Make sure you have the systems and procedures in place to monitor activity at the job site if the project is outside your normal area of operations. Address problems immediately — before they escalate.
- ✓ Examine the construction contract and specifications carefully. Pay particular attention to the potential for change orders. If the potential is great, revise your overall project estimates based on anticipated change orders.

By following these steps, you will increase the likelihood that you will bid only on jobs that have a high probability of delivering the profit margins you require.

Focus on Financial Management

Staying on top of your company's financial position is another industry best practice that's worth focusing on. Start by

tracking your debt levels. High levels of debt should serve as a red flag since, if you are overleveraged, you may have trouble repaying debt without diverting working capital away from current projects.

Always keep track of capital expenditures. New equipment is likely a significant expense. So before committing to a purchase, you need to analyze your upcoming cash flow needs and the financing options that are available. Also consider how financing the purchase could affect your ability to obtain credit for other needs.

Managing your payables is also critically important. Take advantage of favorable

Make everyone aware of your profitability targets for the project and of any incentives that will be available for hitting those targets.

When the job is underway, keep a close eye on costs. Anytime a project is running over budget, take steps to locate the sources of the cost overruns and take measures to get costs back on track. Look out for bottlenecks that might delay your completion date. If you identify any, deal with them immediately.

At the project's conclusion, meet with your supervisors to review the project. If the project came in on time and under

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creditor payment terms and time your payments to conserve cash. If you don't already do so, use electronic funds transfer to make payments on the last day they are due. Review vendor discounts for early payment and take advantage of terms that are favorable to you.

Know the payment terms outlined in your contracts. Don't delay issuing invoices, and provide required supporting documentation promptly. Contact customers as soon as you detect any delays in payment and stay on top of accounts that are past due.

Keep Close Track of Productivity

Receiving weekly productivity reports helps project managers manage their jobs in the most efficient and cost-effective way. Paying attention to every phase of a project on an ongoing basis is a critical element in maximizing productivity. Schedule pre-job meetings in which you have project managers and foremen identify and examine potential trouble spots.

budget, identify the factors that contributed to this positive result. If the project lost money, determine where the problems occurred and how you would address similar problems in the future.

Implementing these construction industry best practices can help your company cope with today's tough business climate. If you feel that your company could benefit from a review of your current financial controls and operations, please contact us. ✓

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Developments in Tax and Business

Dramatic Decline in Construction Fatalities

Construction fatalities fell last year to their lowest level in 18 years, according to data recently released by the U.S. Department of Labor Bureau of Labor Statistics (BLS). The preliminary report by the BLS noted that 816 fatalities occurred in construction in 2009, a 16% decline over the prior year's figure.

New Section 179 and Bonus Depreciation Provisions

The Small Business Jobs Act of 2010 contains tax provisions that could be helpful to contractors. Previously, Section 179 of the tax code allowed businesses to expense up to \$250,000 of the cost of

machinery, equipment, and other qualifying assets placed in service in tax years beginning in 2010. The \$250,000 maximum Section 179 deduction limit was reduced dollar for dollar as the cost of qualifying assets placed in service during the year exceeded an \$800,000 investment ceiling. The Jobs Act sets the annual expensing limit at \$500,000 and the investment ceiling at \$2,000,000 for tax years beginning in 2010 and 2011. That means that an additional \$250,000 of immediate write-offs could be available to some businesses for the 2010 tax year. The Jobs Act also allows a first-year depreciation "bonus" equal to 50% of the adjusted basis (generally, the cost) of qualifying new assets acquired and placed in service during 2010 (as well as during 2011, for certain long-lived property). ✓

Can We Serve You?

Our firm provides a broad range of accounting, auditing, tax, employee benefit, and management consulting services to contractors.