



OSHA-10 & 30 Training Courses Required

To enhance safety in the construction workplace, the 2009 Nevada Legislature enacted Assembly Bill Number 148 that requires workers to complete an Occupational Safety and Health Administration "OSHA" 10 Hour safety course and supervisors to complete a 30-Hour OSHA Training course no later than 15 days after being hired.

The new measure becomes effective Jan. 1, 2010.

Once the courses are completed, the construction worker will receive a "completion card" that must be presented to the employer. The "completion card" is valid for five (5) years.

OSHA's 10-hour construction course is an introduction to OSHA and its Construction Standards, covering several sub-parts of the standard with emphasis on Nevada enforcement activities. OSHA's 30-hour supervisor training provides training in OSHA's Construction Standards, and is an expanded version of the 10-hour course.

Both training courses emphasize construction safety, health hazard recognition and prevention standards developed by the Occupational Safety and Health Administration of the United States Department of Labor.

The State of Nevada Department of Business and Industry's Division of Industrial Relations is responsible for approving the OSHA-10 and OSHA-30 courses. Federal OSHA training guidelines that parallel Nevada's requirements are available at the OSHA public website at: www.osha.gov

OSHA-10 and OSHA-30 courses are offered by numerous organizations including Associated Builders and Contractors; Southern Nevada Home Builders Association; Associated General Contractors in Southern Nevada and Construction Training Center in Northern Nevada as well as the Safety Consultation and Training Section (SCATS) of the Department of Business and Industry. In addition, the College of Southern Nevada and Truckee Meadows Community College offer courses and some on-line courses are available.

For more information concerning the new requirements, the following websites may be helpful: The Safety Consultation and Training Section (SCATS) web-site:

<http://www.nv1030.org/main.asp?pID=1>; the College of

Southern Nevada,

<http://www.csn.edu/workforce/index.asp>, and Truckee Meadows Community College,

<http://www.tmcc.edu/WDCE/ISRCC/>

The Department of Business and Industry's Division of Industrial Relations may be reached at the following telephone numbers: in Southern Nevada (702) 486-9140; in Northern Nevada (775) 824-4630 and in Northeastern Nevada (Elko) 775-778-3312.

Contractor Standards For Ethical Practice

A contractor who is dedicated to following ethical business practices has made the commitment to comply with the full spirit and intent of all laws and regulations that impact the industry. On a personal level, practicing ethical behavior and following honest business practices also include the contractor's relationships with all parties involved in the construction process. Among these are customers, architects, employees, suppliers and subcontractors.

The ethical contractor is the one who believes it is possible to own and manage a successful, profitable business by establishing fair and honest policies. A contractor may become involved in unethical practices unwittingly through a genuine lack of knowledge about the proper way to conduct business. On the other hand, some unethical individuals may decide that the only way to be competitive is to conduct their businesses based on dishonesty and deceit.

A major challenge facing many construction owners is their ability to communicate effectively with customers and others in the business community regarding how they conduct their business to provide services honestly and fairly. To help communicate this message, here is the following **Contractor Code of Ethics**.

10-Point Contractor Code of Ethics

1. We will always provide a detailed cost breakdown before beginning the work.

The primary concern of consumers entering into a construction project is the ability to account for and justify the total cost of the proposed work. Creating a detailed allocation of costs allows the owner to make informed decisions about specifying the work. The important factor is that a clear description of costs eliminates many misunderstandings and conflicts between contractor and project owner.

2. We will always provide a written schedule for the progress of the work.

It is not enough to generally assign a block of time to the entire project. Project owners want the opportunity to follow the roadmap of the progress by being prepared for delivery of materials, waiting time for coatings to dry, scheduling of inspections and all components of the use of time. The schedule document, whether a bar chart or a simple calendar page, allows the owners to remain informed about the progress of the work.

3. We will always secure a building permit, if it is required. Regardless of the size of the project, the building authority

Contractor Standards For Ethical Practice

(Continued From Page 1)

should be provided with an opportunity to review the health, safety and welfare issues that are addressed in the building codes. By taking this step, the contractor is assuring the homeowner that the work is being completed under the requirements of the various codes.

4. We will always sign a written contract that includes our cost breakdown, the schedule and the plans.

The importance of a written contract goes far beyond describing the work and the cost to be paid. Contracts define what action the parties will take when unforeseen events occur. The care taken to draft a complete and detailed agreement is an invaluable step towards the smooth completion of the project and a strong relationship between the contractor and owner.

5. We will always provide sufficient labor to accomplish the work according to the project schedule.

Perhaps the most frequent complaint of project owners against contractors is the tendency to not provide workers for the job in a manner to adhere to the schedule. Contractors subscribing to this principal provide owners with a level of comfort that work is going forward and the schedule is being followed. When circumstances such as weather and material deliveries cause delays, the contractor will notify the owner of the delay and provide a revised completion date. The key element is improved levels of communication regarding the management of the project schedule.

6. We will always leave the job in a clean and orderly condition.

The value of a clean job site is often underestimated by the work force. Not only is the safety of the project site increased by the elimination of debris and clutter, building inspectors tend to spend their time evaluating work for its care rather than being critical of the lack of housekeeping.

7. We will provide you with a list of the subcontractors that we intend to hire.

A typical remodel will involve numerous subcontractors to perform the countless tasks and provide diverse materials and equipment to the job. By providing a list of all subcontractors and suppliers, the contractor is informing owners of the characteristics of the team that will be accomplishing the work. This has serious consequences when

dealing with the administration of mechanics lien rights and releases. But more importantly, subcontractors and their suppliers provide valuable insurance for equipment failures and consequential damage.

8. We will provide a detailed invoice that incorporates a current report of the project budget.

Contractors and owners alike are familiar with trauma associated with the "final invoice." The surprises that occur when all of the accounting for changes and upgrades are totaled are generally associated with the last invoice. Contractors have a critical duty to their customers to keep them informed throughout the project regarding revisions to the total budget. Small and seemingly inconsequential upgrades can mount up to a substantial cost, if not carefully and faithfully monitored. Experience has shown that even a diligent change order system fails to inform the owners of the total impact of the aggregate changes that have been made.

With a budget report, line items created in the initial cost breakdown are accounted for on every invoice. Changes are also reflected on every invoice as soon as the owners elect them.

9. We will compile a booklet of all manufacturers' warranties for any new equipment we install.

Manufacturers of water heaters, furnaces, thermostats, fireplaces, and appliances provide detailed brochures with instruction, warranties, and maintenance tips. The contractor will endeavor to gather and bind all of the technical bulletins and brochures and assemble them into a booklet for retention by the owner.

10. We will conduct a walk-through inspection with you and correct any deficient work prior to final payment.

The contractor agrees that no final payment will be made until all unfinished work has been completed. The contractor will correct any deficient or damaged work according to the agreement between the parties.

This Code of Ethics was provided by William F. Dexter, Construction Risk Manager, and Mary S. Jones, Esq. For more information, call: (805) 544-0852, or e-mail: wdexter@pacbell.net

TMCC Offering Fall Classes For Contractors

The following classes are being offered at the Truckee Meadows Community College IGT Applied Technology Center, 475 Edison Way, Reno, NV. For more information, go to the TMCC website at www.tmcc.edu and click on Continuing Education, or call: (775) 829-9010.

Behavior-Based Safety-Changing Hearts and Minds - This two-hour presentation will provide tools necessary to assist employees in protecting themselves by addressing human factors often associated with industrial accidents. Six behavior-based skills that can have immediate results are presented. The class is on **Oct. 22** Cost \$45.

Forklift Safety Training - Prerequisite: Must be at least 18 years

old to register. Regardless if you're a novice or an experienced operator, this course will help you further develop your driving skills. Learn the safe operation of all forklift styles such as sit-down, stand-up, rider pallet jack, reach trucks and order-pickers. In addition, find out about the stability triangle, load safety, the proper steps for completing a daily inspection and more. The class is on **Oct. 10 and 24**. Cost \$79.

10-Hour Outreach for Construction - Learn 10 of the required training topics under OSHA 29CFR1926 standards. Upon successful completion, receive a Department of Labor certificate and wallet card.

(See TMCC, Page 2)

TMCC Offering Fall Classes For Contractors

(Continued From Page 1)

The class is on **Oct. 28-29**. Cost \$125.

24 Hour Miner Training - This three-day course of instruction will meet the requirements for Part 46 and Part 48, Underground and Surface Miner Safety Training. All required information is presented and students receive color training materials, and a certificate of completion will be issued to those that successfully complete the course.

The class is on **Oct. 7-9**. Cost \$175.

EPA Update-What's New with SARA and RCRA - Delve into the newest and hottest changes to environmental legislation. Planning, permitting, waste storage, handling and disposal will be addressed with an emphasis on the new on-line haz-mat permitting and reporting requirements in Nevada. If five or more from the same company attend, take a \$10 discount off each student. The class is on **Oct. 26**. Cost \$55.

IRS Forms Team To Look At Employee Tool & Equipment Plans

The Internal Revenue Service has established a cross divisional team to address significant concerns with certain **Employee Tool and Equipment Plans, sometimes called Service Technician's Tool Reimbursement Plans**, that purport to receive tax-favored treatment as "accountable plans" under Internal Revenue Code § 62(c) and the accompanying regulations.

An expense reimbursement arrangement is a tax-favored accountable plan, if it satisfies the three requirements of business connection, substantiation, and returning amounts in excess of substantiated expenses, and if it does not evidence a pattern of abuse of the rules applicable to such plans.

Amounts treated as paid under an accountable plan are excluded from the employee's gross income, are not reported as wages on the employee's Form W-2, and are exempt from withholding and payment of employment taxes. Conversely, if the arrangement fails any of the requirements or otherwise evidences a pattern of abuse of the rules, the amounts paid under the arrangement are treated as paid under a "nonaccountable plan" and are included in the employee's gross income, must be reported as wages or other compensation on the employee's Form W-2, and are subject to withholding and payment of employment taxes.

Many of the tool plans currently being marketed do not meet the requirements to be tax-favored accountable plans despite their claims to the contrary. In addition to its concerns with the lack of substantiation provided by the technicians to ensure that only expenses incurred for that employer are included in the plan, the IRS is focusing on the fact that the majority of the plans being marketed are designed and operated around a structure that recharacterizes a portion of the employee's existing pay as a "reimbursement" for the employee's tools merely to generate tax sav-

ings for both the employer and the employee.

In other words, the employee continues to receive the same gross pay, but what was previously paid as taxable compensation is recharacterized as non-taxable reimbursement until the employee's alleged tool costs have been recovered, then the employee returns to his original amount of taxable compensation. The accountable plan rules make clear that amounts paid whether or not there are expenses incurred are not reimbursements and are not eligible for tax-favored treatment.

The IRS' attention to tool plans is not new. In 2000, the IRS issued a Coordinated Issue Paper, Service Technicians' Tool Reimbursement Plans. The Coordinated Issue Paper concluded that "...generally, amounts paid to motor vehicle service technicians as tool reimbursements will not meet the accountable plan requirements."

Although directed specifically at motor vehicle service technicians, the conclusion of the Coordinated Issue Paper was consistent with fact patterns also found in other industries. In 2005, Revenue Ruling 2005-52 addressed the tax consequences of a tool plan, as typically operated at that time. The ruling concluded that the arrangement failed to meet both the substantiation and return of excess requirements and therefore was not a tax-favored accountable plan.

While the tool plan promoters responded to the revenue ruling by changing elements of their plans to address some of the shortcomings regarding the substantiation of expenses, the IRS continues to be concerned about the currently marketed tool plans. Of particular concern to the IRS is the

apparent design and operation of the tool plans to recharacterize a portion of the compensation otherwise payable to the employee rather than reimburse substantiated expenses incurred for the employer.

The IRS' cross-divisional team includes members of all examination divisions, Appeals, and the Office of Chief Counsel. The IRS has also initiated promoter investigations and employer examinations identified from promoter client lists. To the extent that plans do not meet the accountable plan rules, there will be employment tax and potentially penalty assessments.

The IRS is also currently revising the 2000 Coordinated Issue Paper, Service Technicians' Tool Reimbursement Programs, to reflect facts consistent with plans currently being marketed.

These plans are widely marketed to various industries, including the automotive, heavy equipment, construction, aircraft maintenance, agriculture, and other industries.

Taxpayers that are considering implementing such a plan are advised to take a cautious approach.

Reprinted from the Internal Revenue Service's website: www.irs.gov