

Creating a Safety Program

Plan for the worst to keep workers safe and OSHA happy

by Theresa Coleman

If you're tempted to skip this article because you think safety is boring, consider that having a safety program might help you and your crew avoid injury or death at work. Also consider the cost of an accident: workers' comp bills, legal fees, higher insurance premiums, damage to your clients' property, time spent finding new help, and lost building days. More than one-third of job-site injuries result in at least a month away from work. That's a lot of time — and money — lost. A safety program helps keep that money, which you've spent hours training and sweating to earn, where it belongs — safely inside your wallet. Not to mention that having a safety plan is required by OSHA, which, by the way, levies fines for infractions.

OSHA Fines

Have you been betting on the probability that OSHA won't ever walk onto your site? After all, decks are

typically built in residential areas, out of sight in the backyard. But if you lose the bet, can you cover the loss? If OSHA ever shows up to investigate an accident, or if a compliance officer notices something wrong while driving by your site, you could be fined for a "willful" violation, which carries a maximum penalty of \$70,000.

The good news is that the average fine for such willful violations, as reported in 2006, was much less — just \$30,000 for those involving a fatality. For repeat willful violations — problems that have already garnered a penalty within the past three years — the average fine was about \$19,000. If you are just violating the regulations on a "serious" level, the maximum fine is \$7,000 per violation. (OSHA counts all violations as serious where there is a "substantial probability that death or serious physical harm could result.")

From October 2006 through September 2007, OSHA fines for violating the safety training and education regulation totaled \$970,597. Total fines for the same period in a few other categories that are relevant to

Safety for the Self-Employed

If you are self-employed and never hire any employees or subcontractors, OSHA has no authority over your building practices. But it's still a good idea to consider all the dangers on the job site and follow OSHA's guidelines. Even if you won't get fined, there's a lot riding on your health and ability to earn money. Also keep in mind that if another company hires you to work on a job, that company can require you to follow its safety requirements.

deck building include: fall protection, \$8,651,106; ladders, \$1,651,114; head protection, \$1,044,470; and eye and face protection, \$514,476. These numbers aren't specific to deck builders, and indeed, OSHA fines are typically reduced by 60 percent for small businesses, but they do tell the story that OSHA is far from shy about handing out fines.

Weaving a Strong Safety Net

Developing a safety program requires planning and a budget, and as is true of other aspects of a business, the program will be more effective if you write it down. Although OSHA does not require your



Deck building isn't heavy construction, but it entails many of the same risks as other building activities. With the dangers of running equipment and open holes, and the possibility of injuries from falls, nail guns, saws, and electricity, building decks may be fun, but it's no joke.

safety plan to be in writing, it will be easier to prove that you have one if you can pull it out of your file cabinet. It's also easier to communicate the plan to your employees and subs when you can hand them a copy of it.

There are many safety programs available for purchase; the National Association of Homebuilders (NAHB) offers a good one (**Figure 1, page 3**). But whether you buy one or create your own, keep in mind the following six key components of a successful program, which I cover in detail in this article.

- Safety roles. Identify the employees who will be involved in creating and maintaining the program and add the duties involved to those employees' job descriptions.

- Worker safety training. Determine how and when you will train current and new employees – and subs

– so that you'll have educated personnel without a drop in production.

- Personal Protective Equipment (PPE). Pay for personal protective equipment for your workers and communicate the policy for its use.
- Client safety. Advise your clients about safety issues that will concern them.
- OSHA inspection. Train your employees on what to do if an OSHA compliance officer does show up to inspect the site.
- Emergency plan. Outline a step-by-step plan that your workers should follow if there's an emergency. OSHA also has specific requirements that you'll need to follow (www.osha.gov).

Safety Roles: Who Is Responsible?

Take it straight from the OSHA regulations (29 CFR

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1926.21(b)(2)): “The employer shall instruct each employee in the recognition and avoidance of unsafe conditions and the regulations applicable to his work environment to control or eliminate any hazards or other exposure to illness or injury.” This means that the owner of the construction company is responsible for everyone’s safety – from the workers to the subcontractors. The contractor can be fined even if it’s a subcontractor that’s creating the unsafe condition.

Other civil law may hold the owner of the construction company responsible for the safety of the property owners, their guests, and even trespassers (see sidebar, “Kids on the Job Site,” page 4). It doesn’t matter whether or not you are on the job site; if you’re the owner of the deck-building company, you’re the one responsible and liable if anything goes wrong.

A solid safety program should insure the site is as safe as possible even when you aren’t there. That’s why it’s important to designate what OSHA refers to as a “competent person” on every site to be on the lookout for any potential dangers throughout a job. You don’t have to hire a new employee to fill this role – it’s a serious one but doesn’t take 40 hours a week on a deck builder’s job site. Typically, the lead carpenter takes on the responsibility.

The competent person must be able to identify hazards and must have the company’s authority to act promptly to deal with hazards. Usually this person checks the site every morning and at the end of each day to make sure all is safe. (On large sites, there may also be a “qualified person.”) This safety worker will have a recognized degree or certificate, or the experience and ability to solve problems, and she may wear a different color hardhat or a colored vest to make it easy to identify her in an emergency.)

Not only should the owner and the designated competent person be looking out for everyone’s safety, all workers must be accountable for safe work

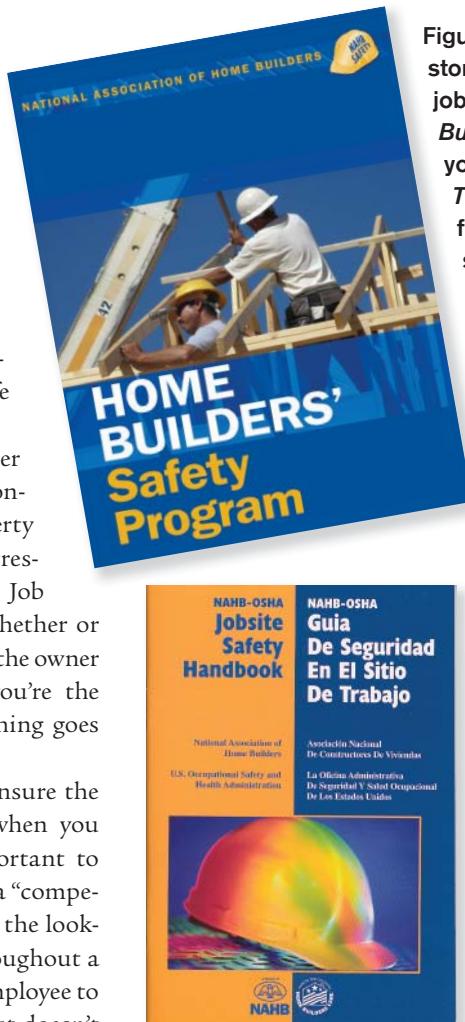


Figure 1. The NAHB bookstore (<http://store.builderbooks.com>) offers several job-site safety references. The *Home Builder's Safety Program* (\$50) can help you create a written safety program. *Toolbox Safety Talks* (\$50) provides fodder for an ongoing series of job-site discussions. Finally, the *Jobsite Safety Handbook* (\$12) is a great handout for employees. Discounts are available to NAHB members.



practices, too. Think about this: You wouldn’t let a worker return to work from lunch smelling like a brewery, right? You’d send him home (maybe call a cab or have someone else drive him), and he’d lose that afternoon’s pay. In a like manner, not wearing safety glasses or steel-toed shoes, for example, should trigger consequences. For first-time minor problems, warnings may make sense, and then if problems continue or get more serious, you may want to use consequences that affect bonuses, promotions, and retention, based on the type and frequency of the violation.

Subs should be held to the same standards as employees. Some contractors provide their written

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safety requirements to subs, requiring them to sign off on a document that says they've received, read, and will follow the requirements as part of the contract. You can even make it part of the contract that subs attend any regularly scheduled safety talk or program that the company puts on.

Worker Safety Training: What Should You Do?

You can purchase canned training talks — called toolbox or tailgate talks — and use them as a weekly ongoing safety training program. Most are designed to take about 15 minutes or so; they cover everything from tool safety to working with electricity or heavy equipment. They're a good way to tackle an issue

that will be coming up soon on the site — safety around a post hole, for example — or to address some recent event, like one of the crew trying to lop off his fingers with the chop saw. There also are videos and online courses that are more comprehensive — some resulting in certification — that might be more appropriate for a designated competent person.

Most general safety training tends to focus on what OSHA calls the Big Four: falls, electrical hazards, being struck by something, and being caught inside something. These account for about 90 percent of all deaths on residential job sites every year, with falls accounting for more than one-third. More people end up in the emergency room every year from ladder injuries than from saw and hammer injuries combined, according to the U.S. Census. If you are more than 44 years old and work for a company with fewer than 10 people, and you're on a scaffold or ladder around 2 p.m. in August, you should be extremely careful. You are statistically the most likely candidate for job-site fatality, according to numbers from the Bureau of Labor Statistics compiled by the NAHB.

Kids on the Job Site

Kids think deck builders are cool. The equipment looks powerful, the noise from the tools is exciting, and job sites look like fun places to hang out. However, it's hard to extinguish kids' desire to wander over to the backyard job site when you've left for the weekend.

If someone gets injured on your job site, you are responsible and may be liable for any injuries. It doesn't matter if you've posted signs, wrapped everything with caution tape, and asked your clients and their neighbors to tell their kids to stay away from the potential dangers.

Kids may not know that the machine could move or the dirt pile around the post hole could give way. And unlike adults, children aren't legally expected to realize potential dangers around them, so the owners of construction equipment and job sites are responsible for taking measures to make sure trespassing kids will be safe.

Liability for trespassers' injuries on construction sites varies slightly from state to state. Talk to your insurance agent and lawyer for the specifics on how your state handles what is referred to as an "attractive nuisance."

Personal Protective Equipment: What's Required?

Another essential part of a safety program is safety equipment. And safety equipment costs money. In the past, there was no requirement for employers to pay for PPE, although they had to ensure that employees wore the appropriate gear. That has changed. As of February 13, 2008, you are responsible for providing your workers with personal protective equipment — safety glasses, gloves, and the like.

Just as important as having PPE is using it all the time. There's a reason why everyone on a road crew, including the person holding the "slow" sign, wears a hard hat. If everyone must conform to rules of safety at every moment of the workday, there's no uncertainty about when a worker has to be protected (**Figure 2, page 5**).

According to Rob Matuga, director of safety at the NAHB, the PPE requirements for deck builders include safety glasses, hard hats, possibly safety boots or steel-toe shoes, and fall protection — such as guardrails and personal fall arrest systems (PFAS) — if it's feasible or its use doesn't create a greater hazard, such as collapse of the structure if a fall were to occur.

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It's important to know that falling or dangling while wearing a PFAS can affect the flow of blood, causing unconsciousness and possibly death. In essence, the blood pools in the legs in a way that prevents it being pumped back to the heart. It's called orthostatic intolerance or suspension trauma. "Have a rescue plan in place if you are using personal fall arrest systems," says Matuga. It's best to work in pairs if you do use PFAS.

Client Safety: What Should They Know?

Even if you tell clients not to walk out back while their yard is torn up because it isn't safe, there's a good chance curiosity will get the better of them. Arming them with basic safety information about the site and what you are planning to do, so they

don't end up at the bottom of a post hole, is a good idea.

It's important to tape off any doors that lead to decks under construction, especially if you are remodeling a deck — your client (or a guest) may not remember that the old deck or stair isn't there anymore. And it's not just the people that you have to worry about. "We have never had anyone open a door and step out into no-man's land while we were working, but we did have an English bulldog use his doggy door at an inopportune time," says Bobby Parks of Peachtree Decks and Porches in Alpharetta, Ga.

An old deck had been removed and Parks' company was framing a new one when, says Parks, "the dog exited his door, traveled about 10 feet straight down, and sounded like a 60-pound bag of potatoes hitting the ground. It took him a good two to three minutes to begin breathing normally again, but then he shook it off, wagged his nub of a tail, and came on out to see us." According to the customer, the dog would not use the doggy door for a long time. Parks now uses plywood over openings so it never happens again.

Whenever you leave the site, it's important to lock gates and equipment. This helps discourage kids and animals from exploring the dangerously irresistible construction site. If you plan to have any post holes or trenches open overnight or over weekends, another good measure of safety (not to mention marketing) is to leave a notice with your clients' neighbors so they know to alert their kids to the potential dangers.

OSHA Inspection: What Should You Do?

OSHA compliance officers do show up on job sites. If you've already been following safe work practices, you shouldn't be too concerned. But it is important to know what you should do when the compliance officer arrives.

- Don't panic. There's nothing like looking guilty and nervous to make a compliance officer's red flags pop up about your job. Don't give the compliance officer any reason to think you aren't ready for a safety check.

- You do have the right to ask for a warrant. While this may not make the compliance officer happy, it is a way to buy some time to fix problems. But you should be ready for a more intense safety review.

- Review the compliance officer's credentials and



Figure 2. New this year, employers are required to provide personal protective equipment to their employees. This carpenter is dressed fairly typically for a job site, with safety glasses, gloves, and steel-toed boots. Yet she is only partway there — she's missing hearing protection and a hard hat. If she were working at a height, she also would be subject to fall-protection requirements.

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write down the name and contact information for your records.

- Walk with the compliance officer around the site so that you can answer questions.

- Take a photo of anything the compliance officer photographs. It's hard to dispute the officer's claims later if you don't have evidence. Make sure to keep detailed notes of everything the officer cites and keep copies of the photos for later reference.

- Correct anything the compliance officer cites before he leaves. While the officer is reviewing your job site, assign workers to fix any problems, no matter how minor, during the review. Then, show the compliance officer that the problem was fixed. This will help convey that you take his suggestions — and safety — seriously.

If you think that your sites are in good shape, but are curious to find out if you really are following all the OSHA regulations, you can call for your own inspection. Now why would anyone be crazy enough

to call OSHA to come out to his own job site?

The good news about calling for a voluntary safety check is that OSHA can't cite or fine you, but you do have to agree to correct everything they find. "We did the voluntary inspection," says Robert Heidenreich of The Deck Store/The Deck & Door Company in Apple Valley, Minn. "We wanted to make sure we were prepared should we ever have an OSHA compliance inspection. They found nothing that surprised us."

Emergency Plan: What Do You Need to Do?

Accidents happen in a flash, like a framing nail shot into someone's hand, foot, or skull. Having a plan and training your team to implement it quickly and appropriately is critical (see sidebar, "An OSHA-Recommended First-Aid Kit," left).

Everyone is required to know what to do when an emergency happens and who to call. OSHA requires, for example, that everyone know where the fire extinguisher is located. Emergency phone numbers should be posted so every worker knows where they are. Emergency response roles should be assigned in advance, and there should be no question as to who is in charge. In most emergencies, there isn't time to discuss who should be calling 911.

For the owner or the competent person, there are a few more steps involved. For nonfatal accidents, OSHA requires you to have available current safety records, which include workers' comp information, and details of illnesses and injuries. Form 300 is required if you employ more than 10 workers. OSHA requires that fatalities be verbally reported at 800/321-OSHA within eight hours of the death.

If you ever have to manage an emergency on your site, you'll be thankful that you created and maintained an effective safety program. And when you keep constant zero-tolerance pressure for a safe work site, you may sleep better at night knowing that you are doing your part to prevent injuries and protect your team from harm. Safety is in everyone's best interest. ♦

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An OSHA-Recommended First-Aid Kit

The minimum first-aid kit for crews of approximately two to three employees is spelled out in OSHA regulations. (Larger kits are needed for more populous work sites.) It should contain the following items.

- Gauze pads (at least 4 inches square)
- Two large gauze pads (at least 8 inches by 10 inches)
- Box of adhesive bandages
- One package gauze roller bandage at least 2 inches wide
- Two triangular bandages
- Wound cleaning agent such as sealed moistened towelettes
- Scissors
- At least one blanket
- Tweezers
- Adhesive tape
- Latex gloves
- Resuscitation equipment such as resuscitation bag, airway, or pocket mask
- Two elastic wraps
- Splint
- Directions for requesting emergency assistance