

OSHA Construction Standards for Private Clubs

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For the past 8 years I have been sharing information on the Occupational Safety and Health Administration's (OSHA) general industry standards applicable to private clubs. My personal learning curve is still progressing and while I readily admit I do not have all the answers – I continue to have a quite a few questions!

Recently while expanding my horizons and attending a 10-hour seminar on OSHA's construction industry standards, I realized how ignorant I was on the construction requirements that OSHA has been citing clubs on! With clubs increasingly undertaking construction projects, several have been cited for various health and safety violations under the construction industry regulations.

The 10-hour Construction Class

This article will share various highlights of the construction industry standards that apply to the club industry. It must be noted that this information pertains to federal OSHA standards; if you are in an area covered by a State Plan, this information may not be applicable.

Differences between OSHA General Industry & Construction Industry Standards

The OSHA regulations for clubs are specifically covered under the Code of Federal Regulations Title 29 Part 1910 also referred to as general industry standards (or in government lingo 29CFR1910). Whenever clubs commence a construction project they invoke the provisions of the construction industry standards under 29CFR1926.

A good example to illustrate the differences between the standards is as follows: The process of repairing, servicing or maintaining a roof air conditioning unit is covered under General Industry standards. However, installing a new roof top air conditioner or replacing it now becomes activities covered under OSHA's construction industry standards.

In some cases, construction industry standards have adopted the same requirements as general industry. The requirements of Hazard Communication in the construction industry standards in 29CFR1926.59 state, "The requirements applicable to

construction work under this section are identical to those set forth at 1910.1200 of this chapter.”

Employer / Employee Responsibilities

The Occupational Safety and Health Administration was formed in 1970 by the OSH Act. Duties for both employers and employees under the Act are listed under Section 5 (also commonly referred to as the General Duty Clause). It states:

SEC. 5. Duties

- (a) Each employer –
- (1) shall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees;
 - (2) shall comply with occupational safety and health standards promulgated under this Act.
- (b) Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this Act which are applicable to his own actions and conduct.

While most are aware that OSHA has the ability to cite a business for wrongful acts including the possibility of a monetary penalty, it is also possible that employees could be fined. However, OSHA never fines employees for their own misconduct or unsafe acts. More often than not, the employer is cited for failing to implement all the elements of an effective safety and health program and therefore fails to meet their General Duty requirements under the OSH Act.

Where an employer can demonstrate that they have instituted an effective safety and health program and there truly is a case of employee misconduct, OSHA does not cite the employer. Rather, OSHA allows the employer to handle the misconduct using the accountability procedures in their safety and health program. It is the employer's ultimate responsibility...not OSHA's...to prove a case of employee misconduct

Intro to OSHA with some Statistics shared from OSHA Publication 2056

Since OSHA's creation in 1970, the nation has made substantial progress in occupational safety and health. OSHA and its many partners in the public and private sectors have:

- Cut the work-related fatality rate by 62 percent,
- Reduced overall injury and illness rates by 42 percent,
- Virtually eliminated brown lung disease in the textile industry, and
- Reduced trenching and excavation fatalities by 35 percent.

Each year:

- Almost 5,400 Americans die from workplace injuries;
- Perhaps as many as 50,000 workers die from illnesses in which workplace exposures were a contributing factor;

- Nearly 6 million people suffer non-fatal workplace injuries; and
- The cost of occupational injuries and illnesses totals more than \$170 billion.

Definitions of competent person, qualified persons

OSHA's construction standard regularly uses the following terms:

A **competent person** as "one who is capable of identifying existing and predictable hazards in the surroundings or working conditions, which are unsanitary, hazardous, or dangerous to employees, and who has authorization to take prompt corrective measures to eliminate them."

The standard defines a **qualified person** as "one who, by possession of a recognized degree, certificate, or professional standing, or who by extensive knowledge, training, and experience, has successfully demonstrated his/her ability to solve or resolve problems relating to the subject matter, the work, or the project."

It is important to note the difference with the competent person being one who is authorized to make changes.

Focused Inspections in Construction

OSHA is focusing their attention on the following hazards that result in 90% of the fatalities and injuries in construction:

- Falls
- Struck By
- Caught in between
- Electrical

If employers have a competent person to address the hazards in these four focused areas and the competent person exercises their authority to take appropriate measures to eliminate, control or reduce those hazards, then the majority of the fatalities and accidents in construction will be eliminated.

Fall Protection

Employers have to assess walking/working surfaces to ensure they have the adequate strength and structural integrity to support workers.

- In general, where employees are exposed to falls of 6 feet or more, the employer must establish some sort of fall protection system. Fall protection systems can be either passive or active systems. Examples of passive systems include guardrail systems, stair rail systems, a handrail on enclosed sides of stairs, or safety net systems. Active systems include personal fall arrest systems, controlled access zones, or safety monitoring systems.
- Floor holes, open-sided floors and skylights must be guarded if they are 6 or more feet above another level.

- Personal fall arrest systems include a safety harness, lifelines or lanyards, deceleration devices and a secure anchorage point of attachment for lifelines, lanyards or deceleration devices.
- Employees wearing personal fall arrest systems have to be trained how to properly use the equipment, how to inspect, clean and store the equipment, and know the limitations of such equipment.
- Active systems are not as preferable as passive systems as training is much more critical. Employees must be aware of how and when they must tie off, establishing a good anchorage point, and is the equipment being used appropriately so as not to result in equipment failure or failure of the equipment to properly prevent a fall or to restrain the employee from fall hazards. What is the appropriate type of equipment to be utilized in specific situations, etc?
- In general, it is also preferable to establish an anchorage point higher than the Dee-ring located between the shoulder blades of the worker!

Personal Protective Equipment (PPE)

Each employer is responsible to assess hazards in the workplace and to follow the hierarchy of controls.

- If hazards exist, the use of engineering controls, administrative controls and/or work practice controls to eliminate or control hazards is preferred.
- PPE is the least preferred method but often times; it is the method employers incorrectly utilize first. In essence, the hazard is still very real and still very present but the employer chooses to merely put the employee in armor to protect against the hazard rather than eliminating the hazard in the first place. Examples of PPE include: gloves, eye and/or face protection, hearing protection, hard hats, footwear, fall protection, protective clothing, and respiratory protection.
- Employees must be trained on why this equipment is necessary, when to use PPE, what PPE is required to be worn, how PPE is worn, including how put on and take off the PPE correctly (it does matter!), how to inspect the PPE, how to clean, maintain, and store or dispose of the PPE, and the limitations of the PPE.
- Sometimes, employees may have to be medically cleared to establish that they can safely wear the PPE and does not create a risk to employees when wearing it (e.g., respiratory protection).

Excavations

Before starting any excavation work, it is a requirement in every state that employers contact the various utility companies so that they can identify if they have underground installations in the area where trenching/excavation operations are to be performed so they won't be damaged. Some states operate "one call centers" which can establish what underground installations exist in the area and they can contact the

various utilities so they can mark the locations of their respective service lines prior to the start of excavating work.

- A competent person knowledgeable in various soil types shall inspect the site for safety at least daily and whenever conditions change that could affect the safety of those working in an excavation.
- Excavations more than 5 feet deep must be protected from cave-ins by either protective systems such as shoring systems, sloping or benching of the soil.
- A ladder is required every 50 feet to allow for no more than 25 feet of lateral travel in the trench for employees working in trenches 4 or more feet in depth.
- A cubic foot of soil can weigh as much as 125 pounds and a cubic yard of soil can weigh over 3,000 pounds! Unless you are Superman, in case of a trench collapse you won't be able to self-rescue yourself and you may have dug your own grave!

Electrical

I have been told in the past that I know just enough to be dangerous and I was reminded of this fact while watching a video produced by an electric utility company.

- Low voltage does not mean low hazard!
- Don't believe cords equipped with ground fault circuit interrupters are actually grounded.
- Inspect power cords and extension cords for wear and tear. Dispose or repair as needed. Wrapping electrical tape around a frayed cord is not a repair! If a flexible cord can be repaired, it must be brought back to the manufacturer's original condition.
- Employers must provide either ground-fault circuit interrupters (GFCIs) or have an assured equipment grounding conductor program.
- Extension cords shall not be fastened with staples, hung from nails, suspended by wires, or run through doors, windows, ceilings or walls.
- Extension cords or cords powering equipment can not be "tied" together.
- Employers must not allow employees to work near live electricity unless they are qualified to do so. It's always best to work on circuits that have been de-energized and locked or tagged out.

Scaffolds

- Each employee working on a scaffold 10 feet or more above a lower level shall be protected from falls by the use of standard guardrails or a personal fall arrest system.
- Specifications for guardrail systems include the maximum and minimum heights of top rails, mid rails, toe boards and their design and construction.
- Further requirements for scaffolds include: adequate crossbracing, work platforms must be fully decked, and scaffolds must be properly supported, level and capable of supporting the load including the weight of the people working on the scaffold, their tools, equipment and all materials.
- Employees must be trained in the hazards of working from scaffolds as well as the procedures to control hazards.

- Scaffolds must be erected, moved and dismantled under the supervision of a competent person and only qualified persons may work off of scaffolds.
- Toe boards, screens, guardrail systems, debris nets, catch platforms, canopy structures, or barricades must be installed to protect employees working below from falling items.
- Employees working where there are overhead hazards, electrical hazards or falling object hazards must wear hard hats.

Cranes and Derricks

- The minimum approach distance to overhead power lines is ten feet.
- This distance increases when the amount of voltage and / or the humidity increases.
- Only authorized employees can operate this equipment
- A competent person before each use must inspect equipment.

Job Hazard Analysis

Have you considered what injuries can occur at your operation?

Steps involved in conducting a job hazard analysis

Step 1 Involve your employees and ask them what can go wrong.

Step 2 Review your past injuries and any near misses.

Step 3 Conduct job reviews and look for inherent hazards

Step 4 Rank and prioritize high hazard jobs

Step 5 Break down hazardous tasks into individual steps

Questions to ask while conducting above steps

What can go wrong?

What are the consequences?

How could it happen?

What are the contributing factors?

How likely is it that the hazard will occur?

For each hazard identified, how can the hazard be eliminated or controlled?

Hazard Communication

- Employers shall develop, implement, and maintain at the workplace a written hazard communication program for their workplace(s).
- Employers must inform their employees of the availability of the program, including the required list(s) of hazardous chemicals, and material safety data sheets required.
- Employers shall provide employees with information and training on hazardous chemicals in their work area at the time of their initial assignment, and whenever a new hazard is introduced into their work area.

- Employers who produce, use, or store hazardous chemicals at multi-employer workplaces shall ensure that their hazard communication program includes:
 - how hazard information will be conveyed to other employers having employees exposed to the hazardous chemicals on the job site;
 - the methods the employer will use to inform other employer(s) of any precautionary measures for the protection of employees;
 - and the methods the employer will use to inform the other employer(s) of the labeling system used in the workplace.

Multi-employer Work Sites

While virtually all construction sites employ various companies; it is entirely possible that if OSHA were to arrive on-site that citations/penalties for the same situation could be assessed to various companies.

Citations/penalties can be issued to those employers, who not only have employees exposed to a hazard, but also those employers in who created the hazard, employers who were responsible for correcting the hazard or to controlling employers such as the general contractor, construction manager, the prime contractor or possibly the club.

Health hazards

The listing of all concerns would be too extensive for this article. Suffice it to say your concerns are in the soil, when your building was built, what is brought on site and the work practices of others.

Some specific concerns may include asbestos, lead, and crystalline silica. Health hazards are often times ignored because they may not be readily be visible or because they may require special expertise to assess the degree of employee exposure.

Health hazards can be very prevalent during construction activities and employers would be wise to utilize the services of outside safety and health professionals if this expertise does not exist in-house.

Each state also operates an on-site consultation service that is free of charge to assist with OSHA compliance. The OSHA website

at: <http://www.osha.gov/dcsp/smallbusiness/consult.html> lists consultation services available in each state to help small employers with complicated issues such as health hazards. They can even conduct air and noise sampling for you free of charge and it's a confidential service as long as you agree to correct any serious hazards they may find.

Other concerns for clubs

Every club is aware of their "curb appeal" or how the entrance area looks. The reason for mentioning this that during major construction activities you will have to determine in advance where you want any portable toilets to be set up to maintain appropriate "curb appeal" and yet still be sufficiently accessible to the workers

performing the work. OSHA regulations require one toilet is available for up to 20 workers and thereafter, one toilet seat and one urinal per 40 workers up to 200 workers are available. In OSHA's letters of interpretation §1926.51(c)(4), OSHA stated that: [I]n general, toilets would be considered 'nearby' if it would take less than 10 minutes to get to them.

A Closing Thought

Awareness is the first step for creating an accident free work place. It is hoped that your safety perspective and knowledge will bring all the workers back tomorrow.

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References and Publications used for this article

www.osha.gov

Scaffolding <http://www.osha.gov/SLTC/etools/scaffolding/supported/index.html>

OSHA Publication 3150 A Guide to Scaffold Use in the Construction Industry

OSHA Publication 3071 Job Hazard Analysis

OSHA Publication 2202 Construction Industry digest

OSHA Publication 2056 All about OSHA

Small business

consulting <http://www.osha.gov/dcsp/smallbusiness/consult.html>

Letters of

interpretation http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=INTERPRETATIONS&p_id=25013

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The primary instructor of the Occupational Safety and Health Administration (OSHA) 10-hour Construction course conducted in Buffalo, New York on February 7-8, 2005 was Gordon DeLeys. Mr. DeLeys is the Compliance Assistance Specialist of the Buffalo, New York OSHA office. Mr. DeLeys' guidance and assistance in reviewing this article is greatly appreciated.