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COVER PHOTO:

Laidlaw Tree Service utility crew working for Boston Edison. Photo by NAA Staff.
This issue is devoted primarily to tree care safety, an area of our industry that I have been deeply involved in for more than 20 years.

Over that time, I have learned several valuable lessons about safety. First, like professionalism, safety is a way of life. You don’t turn it on and off; you use safe practices in everything that you do.

Second, accidents don’t just happen. They are caused when people commit an unsafe act, when they try to do something that is beyond their expertise or knowledge, when they are careless, or when they knowingly take unnecessary chances.

The most important ingredient in tree care safety is management’s commitment. Management must set an example and enforce safety requirements at all times. If the company places a high priority on safety practices, the field personnel will, too. Those who do not are accidents waiting to happen.

Tree care safety practices are embodied in the Z133 Standard of the American National Standards Institute. Every tree worker should be familiar with those practices and use them at all times. Management must take the time and spend the money to use tree care safety programs to train and retrain personnel.

Clearly, there is a moral obligation to prevent injuries. No one wants to see a worker injured. There are financial incentives, as well. Since the cost of workers compensation insurance is modified by a firm’s accident experience, companies with a low accident rate enjoy lower insurance rates. That means a competitive edge and more profits. Further, accidents disrupt production and cause injured personnel to miss work, reducing productivity and profitability.

“It isn’t going to happen to me!” is too familiar a cry. Unfortunately, “it” might happen to you. The less you do as an individual or a company to use and enforce safe practices, the more you increase the risk. The gamble just isn’t worth it.
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Safety First

An interview with a leading tree care safety expert

By Peter Gerstenberger, Editor

Gerald D. Duke is the director of safety and training for Laidlaw Tree Service in Rochester, New York.

Laidlaw Tree Service is owned by Laidlaw, Inc., a Canadian conglomerate. Laidlaw owns the largest yellow bus fleet in North America, and is second largest in the hazardous waste handling business. The company's growth has been largely through acquisition of service businesses. Two and a half years ago, the company bought Monroe Tree and Lawn Tender in Rochester, New York, and Love & Associates in Virginia. Laidlaw Tree Service employs more than 1,000 workers and operates in 11 states, providing utility line clearance tree trimming, residential/commercial tree care and lawn care. Duke was hired to develop training for crews and management and oversee claims handling procedures.

Duke enjoys the challenge of getting a program to work, seeing management people grow in their abilities, and seeing the workplace become a safe environment. He designs his programs so that over time, employees assume increasing responsibility for the program's success.

In the small or medium-size firm, the owner typically wears many hats with little time to administer a safety program. A successful accident-prevention program should run itself, however. Duke stresses that company commitment is important in making his task force concept work.

Tell us about your background, specifically, what experiences led you into this field?

I enjoy safety because of the things I did in the past. As I was going through school, tree work was what I did, and I enjoyed it. I was in law enforcement at the state and federal levels. I was a claims manager for a national insurance company. About 17 years ago I came back into tree work. I became a foreman on a residential crew, advanced to general foreman with a utility line clearance firm, working on right-of-ways. I advanced to utility supervisor for an area covering several states. The opening for safety director became available and I started in, seven years ago.

Describe the structure of Laidlaw's safety program.

Our program is very simple: I believe that for the program to work, the employees must be involved in the program and management must be committed to it. The first thing I did was to create a forum for communication between the field people and management. I established an employee task force—two foremen and one management level person from each division. They meet on a quarterly basis to review serious accidents and request equipment changes to make their jobs more safe. They basically write the policy.

For nine months, the emphasis was upon having these task force meetings and getting the employees to start writing the operations and training manual that is now in the field. They are governed by the manual and they can change it through using the task force. The bottom line for any change is that it has to be consistent with the ANSI (American National Standards Institute) standards and OSHA (Occupational Safety and Health Administration) regulations that apply. Other than that, employees have total freedom to change
When Duke set up his first accident-prevention program based on the employee task force concept, he asked his district managers and general foremen what aspect of their jobs they would most like to change. Their answer: more reasonable working hours—less than the 60 hours per week they were accustomed to. The company was able to respond and significantly reduce the amount of time needed to administer accident-prevention programs by placing more responsibility for those programs with work crews.

We begin with the premise that every crew member has the responsibility for his safety as well as the crew’s safety. The crew leader has the authority to take disciplinary action.

How do you assure employee participation?
We do not refer to our operations and training manual as a safety manual. All employees have a part in writing it, so they are a part of the process. After 30 days, they are evaluated. This keeps their interest. This evaluation is primarily a management tool to test their level of knowledge. The evaluations are structured by the job description. The evaluations are “graded,” but only to let the employee know how he is doing. A letter to the employee tells him what questions were missed. A copy also goes to the general foreman. It is that person’s responsibility to see that employees get training in the areas in which they are weak. Pay advancement requires a performance evaluation.
review. The performance review involves a formal test of understanding. The test is comprised of information necessary to that next level of advancement. There is a passing grade on the performance review—if they don’t achieve 80%, they don’t get the advancement or the raise. However, we don’t slam the door on them. If they don’t pass, they can retest within 30 days.

Our job descriptions have experience requirements. For example, a groundsperson is eligible for promotion after three months. The climber trainee is eligible for promotion after 12 months.

What is management’s role in accident prevention? How does management become committed?

Management becomes committed over time. Management is safety, it is training. I help them develop policy, the software, the programs needed to administer safety. Right now, I chair the task force meetings. Next year, I’ll step out of that role. Either a general foreman or division manager will take over. I’ll be there to observe and advise. My role becomes smaller and smaller, by design. It’s their company, their programs, their people. All they have to learn is how to handle the programs.

Incidentally, when I attend a task force meeting, I generally stay in that locale for a week, so I stay in touch with the field force in that way.

We have an executive claims committee that reviews accidents we believe could have a serious consequence. Right now, that includes any time we knock down a conductor, or any type of electrical contact by equipment. The executive committee is made up of the general manager, myself, and if it involves a piece of equipment, the equipment manager. We meet by conference call with the division manager or district manager of the entity involved. I send out the complete file pertaining to the accident to each person involved.

This review takes place within 15 working days. This gives us time to assemble the information and get any necessary photos or drawings. Within five days of the conference call, I must send out a critique to all participants that outlines what actions must be taken.

Could you outline the hiring and employment schedule your company uses, starting with the job applicant?

Applicants fill out an application with medical questions. They are given a driving test. We run an MVR (motor vehicle record) check. We rate them based upon their prior qualifications. The general foreman or division manager conducts the interview.

After 30 days, a new hire is given the first performance evaluation. If the new hire with previous experience does not pass the test for the level at which he was rated upon hiring, he is bumped down to the level at which management feels he can perform adequately.
The same is not true for existing Laidlaw employees. When an existing employee does not test well at his rated level, the general foreman and division manager have to go to work to correct any weaknesses.

All of our people are given written evaluation exams based on our employee manual, commencing 30 days after they are hired. We use five basic job descriptions: the groundsperson, climber-trainee, advanced climber-trainee, top climber, and line clearance trimmer/crew leader. The manual’s approved operating procedures (AOPs) for each level of employee is color-coded—any page color-coded to the level an employee desires to attain is information that employee must study.

A groundsperson learns how to handle saws, other hand equipment, ropes, road cones, knot-tying and the like.

The climber-trainee just learns how to climb a tree. This person is not allowed to approach closer than ten feet to (electrical) conductors, so the training for a line clearance person and a res/com person is essentially the same to this point.

For the advanced climber-trainee, we start emphasizing the electrical hazards possibilities—how they can identify conductors, how they can handle branches or limbs that are interfering with conductors. We have tree i.d., tree biology and pruning standards.

Top climber testing places more emphasis on tree identification and proper techniques.

You are providing Electrical Hazards Awareness training for your residential/commercial crews—why?

For three reasons. Number one, it’s a convenience to the company. Eight-five percent of our work is utility, so the training manual we prepared had to respond to the needs of that group. Secondly, with the way OSHA’s proposed vertical standard looks right now and with the trends in the industry, we felt it would be beneficial to have all our res/com people as well-trained in electrical hazards as utility people. Finally, it gives the res/com people more growth potential because it makes them more versatile.

The utilities have copies of our training manual, and they understand that our res/com crews get training equivalent to the utility...
With the task force concept, employees police their own activities. Rather than act as the enforcer, Duke is often the interested observer or adviser. He has even videotaped crews working, played back the video to the crews, and allowed them to tell him when they saw problems to be corrected.

crews. They are therefore very receptive to the private crews working around their conductors.

Dr. James Wilkinson is training your pesticide applicators—could you describe that training?

The Lawn Tender business is very seasonal—it requires a concentrated training effort. With all the other programs we are attempting to start this year, we did not want to neglect our pesticide applicators. Therefore, we decided to go to an outside contractor for this service. The correspondence courses that Jim Wilkinson offers seemed to best suit our needs. We enrolled all Lawn Tender and tree spray people in the weekly classes. Feedback has been very favorable.

We view it as an interim measure—it bought time to get our Lawn Tender manual together. It will be in the field next year. We will probably run our new program parallel to this one for a year so we can compare them.

Is there any one area in your workers comp claims that is conspicuous, and what are you doing to control this problem?

Yes, back injury claims are by far the most expensive. We are addressing it with a training program that creates awareness and teaches lifting techniques to help avoid injury. This will be coupled with an exercise program.

I have developed this approach over several years, after working closely with an insurance company representative. Consider that the average worker in this industry is probably young and in good physical condition—muscular. It seems almost inconceivable that such a person could get hurt lifting a 9-pound chainsaw over a fence, yet that’s typical of what happens. This worker, like the professional athlete, can easily strain a muscle, especially at the beginning of the day or right after lunch, usually in the first strenuous activity undertaken.

There are six basic stretching exercises that can be done off the running board of a truck or a fender of a chipper. They only take about three minutes, so they don’t disrupt the work routine. They virtually eliminate strain injuries, and have reduced claims for us by about 30%.

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OSHA, in its proposed Vertical Standard for the utility line clearance industry, is pushing to make CPR and First Aid training mandatory on every crew of two or more. How do you feel about that?

It is impossible to predict which member of a crew may become injured and require CPR or First Aid. We're running a lot of two-man crews. My goal is to have everyone trained in First Aid and CPR. One obstacle is employee turnover. The majority of that turnover occurs in the first 90 days. Therefore, for any of our job descriptions that require more than 90 days experience, you will see CPR and First Aid as prerequisites for advancement. We monitor this process with our computer program—it's not that difficult to get these people trained as long as management has records that tell them who needs it and when. They can't be required to keep that data, they have enough to do. That's where my department comes in.

Laidlaw pays for the training, and in certain areas, provides the trainers. We use local hospitals, paramedic units and volunteer fire departments. They have the time to train us and appreciate the revenue. It has worked out very well, economically, for us.

What are you doing about compliance with OSHA's Hearing Conservation Act, which went into effect in 1985?

We're using mobile testing services—this allows me 12 months to get testing done, versus six months if we were to use a standard facility. Anyone with us for over six months is tested. That program is far more difficult to administer than the CPR program because of the difficulty of getting personnel and the mobile service together at a convenient time.

Training on the use of hearing protection is built into our existing training curriculum.

What can you tell us about your record-keeping?

Let me tell you why we have to have computerized systems. With this type of program with evaluations and performance reviews, it's critical to know where all employees are with respect to their training and qualifications. Often, people are qualified to advance, but there are no slots open for them to advance into. In moments our computer can give us lists of qualified employees.

The second reason for the system is tracking all employee information. The "personnel" side of this database has three screens of information. The first is basic employee information such as name, address, date of hire, etc. The next screen tracks that employee's education history—this includes the employee's in-house training as well as outside training. For example, we encourage our crew leaders to take the NAA home study courses for Arboriculture I and II. We also will be encouraging more and more outside courses in the green industry. We need to track driver training, with the commercial motor vehicle requirements coming into effect. We need to...
know that they have taken a written test; we have to keep track of violations.

The third screen is job-related. We document citations for failure to follow approved operating procedures. We also document any letters of commendation from customers or the public.

I am able to provide my managers with lists of employees whose CPR cards are expiring, who are due for hearing tests, and so on. This type of system is necessary with this many employees coupled with the ever-increasing burden of regulations we’re faced with.

Your program also tracks your workers compensation claims ...

That’s the other side of the program. We track workers comp and general liability claims. I can print reports that tell me, for instance, how many accidents a particular general foreman has had in his area, who was involved in each instance, who the crew leader was, the date it happened, how and where it happened, the date it was sent to an adjusting company, the amount of reserves and the amount of paid claims.

Give us a typical example of how you might use the data.

Say a division is operating with an accident incidence rate of 13%. Typically, a 13% incidence rate in this industry is considered to be good. However, if I break that down by the general foremen within that division and find that a particular general foreman is running an incidence rate of 30%, then we can go in and dissect the problem: is it due to work habits because of the caliber of employee we hired, is it due to starting a large number of employees in a short span of time, or is it directly attributable to the general foreman not performing his task as outlined? The program places a shaft of light upon a specific entity within a division, then lets us analyze it in detail.

You are chairman of the ANSI Z133 Committee, as well as an active member and past chairman of the National Arborist Association Safety Committee. Would you care to comment on the experience?

My committee involvement has helped me stay attuned to the industry as a whole. When all your efforts are directed by any one company, it’s easy to develop tunnel vision. Exposure to the industry’s problems also gives me exposure to many more solutions—it makes me more well-rounded as a safety director.

Are there identifiable “hot buttons” in tree care safety right now?

One of the major concerns facing the Z133 Committee is what to do about disc chippers. There needs to be something somewhere that regulates their manufacture and use; the issue centers on the distance from the “pinch points,” the infeed rollers, to the edge of the hopper. There really isn’t a design or manufacturing standard for chippers. Z133 is largely a standard for operations. The concern is whether Z133 should set a manufacturing standard for a minimum hopper length.

Another issue that will probably resurface is that of the mandatory use of chaps by chain saw operators. The committee entertained the issue several years ago and decided against making chaps a requirement at that time.

What advice would you give to the small tree care company with no formal safety program?

Don’t worry about an elaborate manual. In the small company, Z133 would suffice. The only other thing needed is for management to sit down with employees and establish some job descriptions. Tie those descriptions to specific parts of Z133, and you have a safety manual. That’s where you start. If you need help with accident-prevention training, but don’t have the time or budget to create your own programs, the National Arborist Association has excellent off-the-shelf programs you can purchase.

Good accident prevention begins with management commitment. The task force concept gets employees communicating with management. They become part of the solution, not part of the problem.

Editor’s Note: The ANSI Z133 Standard for Tree Care Safety is available from the American National Standards Institute, Inc., 1430 Broadway, New York, N.Y. 10018. Individual copies are $12, and $4 for shipping.
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Laws vs Regulations

Does The Difference Make A Difference?

By Robert Felix
Publisher

There is a difference between a law and a regulation, and if you ever want to do something about either one, you need to know what the difference is.

Laws are enacted by legislative bodies, such as Congress or your state legislature. Laws usually make broad statements and do not deal with details. That is the responsibility of regulatory agencies.

For example, the Occupational Safety and Health Act of 1970 says that all employers shall provide a workplace free from recognized hazards. No details are spelled out in the OSHAct. Instead, the U.S. Department of Labor was assigned the responsibility of implementing the act and making it work.

A proposed law is called a bill. While a legislative body is considering a bill, interested parties have the opportunity to present their opinions to legislators. After the bill is passed and becomes a law, however, legislators have little effect on how it is implemented.

Most laws specify a date when the law will actually go into effect. Sometimes this may be several years.

Several steps are involved in the implementation process. First, an agency proposes regulations. These proposals are made public and, again, there is opportunity to comment.

Following the comment period, the agency reviews the material it received and revises parts of the original proposed regulation, if and where appropriate. An economic analysis is done on the revised regulation, and the final proposed regulation is then sent to the Office of Management and Budget for approval.

The last step in the process is publication of a notice of final rule-making, including a date when the regulation will go into effect.

Once a regulation is in place, only the courts can revise it or declare it null and void. If the courts uphold the regulation, we live with it unless the legislative body passes a new law with different requirements or the regulatory agency proposes a revision.

Through the National Arborist Association (NAA), the tree care industry is involved in this entire process at the federal level. State or local tree organizations deal with state and local issues.

NAA has a full-time staff person who monitors Congressional activities and proposed federal regulations. If regulations are proposed that would impact the tree care industry, NAA provides testimony on them.

Very often, the tree care industry is affected by legislation or regulations that were never intended for it. Nonetheless, we are required to comply.

This column will keep you advised of developments on Capitol Hill. By being informed, you can write to your congressman or senator about legislation pending or to the regulatory agency that proposes something that you are interested in.
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Aggressive Prevention of Accidents

By Peter Gerstenberger and
Tom Clancy, TCI Staff

An accident is an unintentional, unexpected happening, often resulting in some sort of injury or damage. But accidents don't simply happen; they have causes.

In this article, leading industry safety experts relate how they have attacked some of these major causes of lost time, money and personnel. Their experiences typify the problems and solutions developed by the industry.

My aching back!

Bob Reeder is safety director for Trees, Inc. in Houston, Texas. He serves as one of six appointed experts on a Governor's Committee that is revising the state's workers compensation laws.

Back injuries have cost Reeder's employer almost $1 million a year for the last four years. Back injuries account for 75% of Trees' workers compensation claims. In fact, such injuries keep employees out of work longer than any other type of injury.

After investigating the problem, Reeder found that the most significant causes of back injury were repetitious work, poor lifting technique, obesity, slips and falls, and twisting and turning. He also found that employees with back injury claims often had a history of back trouble.

Reeder feels that a combination of tactics will cut his company's losses. Poor lifting technique and problems associated with awkward objects or lifting positions are controlled by observing workers lifting, correcting their technique, and enforcing lifting policy. Awareness is raised by education and training. Employees with pre-existing back problems are screened through pre-employment physical exams. Strength-building and stretching exercises will help prevent strain injuries.

Reeder is also field-testing a variety of back support devices in the hope of reducing back injury claims.

Substance abuse

Mandatory drug testing is already in force for some businesses. Federal Department of Transportation regulations that went into effect December 20, 1989 require drug testing for drivers of commercial vehicles at firms with over 50 employees. Testing will be required at firms under 50 employees, effective December 20, 1990.

Many tree firms did not wait for the federal mandate. Dick Woods, president of J&S Tree Service in Stow, Ohio, instituted a drug abuse program at his company in January. Woods requires drug tests for all job applicants and random testing for current employees.

Random tests uncovered an abuse problem. Two employees voluntarily
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quit after refusing to submit to random testing. One has since asked for his job back, saying he has “cleaned up his act.” Other employees’ tests were negative. Woods feels his policy is an effective deterrent to future on-the-job substance abuse.

While the concept of drug testing isn’t popular, the alternatives are limited. Some companies use confidential referral services that help employees with abuse problems. This solution is expensive, but often successful.

**Innovation is important**

Fifty years ago, tree workers climbed with rope saddles, or no saddles at all. Fifteen years ago, most were using manila ropes. These facts illustrate that accident prevention is not a final destination, but a journey that relies upon constant improvement.

Don Blair owns Sierra Moreno Mercantile, an arborist supply firm in Maryland. He is an innovator. He says, “I’ve always felt the foot lock was an excellent climbing method, but have been aware of the concern over falling or slipping. In 1989, borrowing knowledge from vertical rope climbing specialists, I recommended using a Prusik Loop belay in conjunction with the standard foot lock technique. A climber (using this belay technique) cannot fall and has both hands free.”

**Ballistic leggings**

Immediately prior to the 1988 revision of the ANSI Z133 Standard for Tree Care Safety, the Z133 Committee entertained a proposal requiring that tree workers using chain saws on the ground use ballistic leg protection—chaps—to prevent saw cuts. Had it been adopted, the proposal would have made the use of ballistic leggings a “should” requirement, one that was highly suggested but not mandatory.

At the time, accident statistics did not justify making ballistic legging use an ANSI requirement, though several large firms reported favorable results from policies that required ground persons using saws to wear them.

Apparently, times are changing. Mike Cook, safety director at Alpine Tree Care in Norwalk, Connecticut, has crews throughout the Northeast. He reports that the mandated use of chaps has resulted in a dramatic decrease in leg injuries among his employees over the past year. Each Alpine crew carries at least one pair of chaps. “The investment now saves money down the road on all aspects of health costs,” Cook explains.

**Electrical hazards**

Tree crews engaged in private residential/commercial work have several options when they encounter a tree close to electrical conductors. They can choose to ignore the hazard and take their chances with serious injury or death. They can call the utility and wait for trained crews to trim the tree—a process that can take anywhere from hours to months. Or, they can get the necessary training.
and experience to effectively recognize and deal with electrical hazards.

John Jordan, safety director for the F.A. Bartlett Tree Expert Company in Stamford, Connecticut, is responsible for the training of Bartlett’s general tree and public utility crews. He feels private crews are at greater risk from electrical hazards, even though their exposure to energized conductors is sporadic. On-the-job awareness training for utility crews substantially reduces risk from this ever-present hazard. Private crews don’t have the advantage of such training. Jordan wants to change that.

Bartlett uses the National Arborist Association’s Electrical Hazards Awareness Program (EHAP) to fulfill training requirements for line clearance personnel. It is Jordan’s goal to train all private crews as well. Employees are trained within 90 days of hire. In the course of the training, employees are certified in First Aid and CPR.

Jordan stresses, “EHAP does not certify people or authorize them to do line clearance, that is not the intent of our training with private crews. We want to create the awareness of the hazard, not condone unauthorized work around wires.”

Employee protection

The Asplundh Tree Expert Company, in Willow Grove, Pennsylvania, has a long history of requiring its employees to use personal protective gear, according to James Allard, Asplundh’s safety director and chairman of NAA’s Safety Committee. Accident data for the company’s 13,700 employees dictated the need for certain types of protective wear beyond the standard hardhat, work boots and uniform.

Since 1985, Asplundh has required the full-time use of eye protection with side shields. In 1989, after six months of field experimentation, the company made chap use mandatory for all ground chain saw operations. Allard estimates the company has purchased over 6500 pairs of chaps. Company uniforms are cotton, not only for comfort, but also because the company feels that synthetic materials may create some additional risk from electrical side flashes for line clearance tree trimmers.

Asplundh realizes that workers face threats from unseen enemies and provides workers with a special cream for poison ivy prevention. Employees in locales where Lyme disease is endemic use a product to repel the deer ticks that transmit the disease.

Smaller firms can follow the big company’s lead by obtaining and using personal protective gear to reduce the likelihood of future accidents.

Getting to work

Most tree crews spend a substantial part of their day traveling to and from job sites. Thus, it is not surprising that, like most service industries, tree care businesses have a problem with motor vehicle accidents. More progressive companies already require employees to wear seat belts, and seat belt use may be suggested by the ANSI Z133 Standard in its next printing.

But seat belts don’t prevent accidents. Ed Johnson, vice president of equipment and safety for the Davey Tree Expert Company in Kent, Ohio, illustrates how Davey solved its bad driver problem.

Several years ago, Davey’s insurance carrier reviewed the company’s safety program and found the company needed help reducing vehicle accidents. An insurance representative discussed policies and procedures with the safety department. Those discussions focused on what training, if any, the department would want new hires to have.

After about two weeks, the insurance company representative returned with a recommendation to implement the National Safety Council Defensive Driving Course (DDCS), which involves eight hours of classroom instruction. All drivers who had been involved in two accidents within 12 months were not allowed to drive company vehicles again unless they took the course. The remainder of Davey’s drivers...
were also required to take the course.

"Several problems surfaced immediately," Johnson said. "First, the Defensive Driving Course was too long to be implemented effectively. Second, we were faced with the question of how to present the program in all the states where we are located." In addition, Johnson said, several parts of the course do not pertain to Davey's situation. The company turned to the National Safety Council for help and was able to get approval to offer an accredited four-hour course. The NSC trained the company's safety supervisors, who in turn trained other employees to be local trainers.

Davey noticed a significant drop in its vehicle accidents the first year this program was implemented, with further declines in subsequent years. The company also learned that unless the tree company asks for assistance on loss control, the insurance company probably will not volunteer to help.

Speaking of insurance

Accident prevention and insurance cost containment go hand in hand. Increasingly, experts are advising companies to take measures aimed at controlling litigation and reducing the misuse of benefits. A friendly relationship among your company, your employees, and your insurance company can have a positive effect on your claims experience as well as company morale.

Kathryn Hancock, safety director of McCoy Tree Surgery in Norman, Oklahoma, feels that companies must educate workers on workers compensation laws, which she says are designed to protect workers, not insurance companies.

Hancock's company invited insurance adjusters to attend regularly scheduled safety meetings. At these sessions, employees discuss workers compensation, laws and insurance companies. After the meetings, the adjusters are available for one-on-one conversations.

The company also provides the home telephone numbers of management people so that employees can get immediate answers to questions dealing with safety or workers compensation. Workers are encouraged to call collect, if necessary.

The relationship between employees and the insurance company is as important as the employer-employee relationship, Hancock says.

Summary

This article highlights some of the key safety issues for the industry—problems your company may face. The solutions worked out by others are likely to work for you.

Preventing accidents and controlling the associated costs means investing your time, money, diligence and a certain amount of ingenuity. Over time, the investment may yield returns in real dollars; however, the first dividend you receive is peace of mind.
CONGRATULATIONS!

Congratulations (and thank you) to NAA for providing what will be hopefully an informative and high-quality magazine for this industry.

I hope that NAA will be establishing some form of criteria for advertisers in TCI. This industry has enough difficulties getting tree care personnel (and even member companies) to follow established safety practices.

I hope you share these views and I hope you are as interested as I am in seeing a truly top-notch trade publication.

Art Braunschweiger,
Owner, Aerial Tree Experts
Bound Brook, N.J.

In behalf of everyone here at Vermeer, I would like to congratulate you on your inaugural issue of Tree Care Industry. I received a copy of the mockup of TCI and feel very confident that the National Arborist Association has a real winner in the making.

One additional thought: as the arborist marketplace continues to play an increasingly important role in the marketing efforts at Vermeer, I feel that we should make every effort to visit with key people who serve the industry . . . and to share with you our thoughts, concerns, interests, suggestions and solutions to this ever-expanding industry.

Mary Andringa,
President, Vermeer Manufacturing
Pella, Iowa

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Hello, I'm From OSHA

What To Do When A Compliance Officer Knocks On Your Door

Are you prepared for a visit from an OSHA (Occupational Safety and Health Administration) compliance officer? By law, you can't have any advance notice of a visit from a compliance officer. Such inspection visits are, therefore, by their very nature, surprise visits. The inspection can be prompted by an employee's or union's complaint to OSHA, or in response to your required report to OSHA of injury to several employees or a fatal accident. Sometimes, the compliance officer may be driving by and decide on his own to check out your crew or your base of operations.

If the compliance officer comes to your shop, garage or offices to conduct an inspection, you have a legal right to bar his entry and require that he produce a search warrant. Whether you exercise this right must be weighed against the "fine-tooth inspection" you may receive when he returns with a warrant.

If, however, an employer's operation is conducted out of doors in plain view, as tree work obviously is, then the inspector does not need a warrant to issue citations on what he sees.

Ask for credentials

When an OSHA inspector calls, he must present his credentials and he must comply with your safety regulations. He must be permitted to inspect the operation without undue delay. He can interview your employees out of your presence, and he has the right to have an employee representative accompany him on his "walk-around" tour of your place of operation. You, too, have a right to accompany him on his tour. You should be sure to do so. While accompanying him, you should take careful notes on the status or condition of any item that seems to be of interest to him.

If the compliance officer takes tests or collects samples, you should take detailed notes on what he does. For instance, if the compliance officer conducts noise tests, be sure to know what kind of meter he is using, what scale it is set on, if he is testing average ambient noise or loud impulse noise, and how far from the noise source the dosimeter (noise-measuring device worn by worker) is placed. Sometimes the compliance officer will follow incorrect measuring techniques, which skew his test results. Vengeful employees also have been known to "spike" test results. In one case, employees were caught using a traffic cone as a megaphone to amplify the noise of a nearby operating chain saw. Frequently the compliance officer will return to learn more details about your operation, often to build his case. He will give you a "closing conference" when he has completed an outline of his preliminary conclusions. Only his area director can issue citations, which normally arrive a few weeks after the inspections.

Notice of contest

If a citation is issued, you have 15 working days after you receive it to file your "notice of contest" with the area director. That action has the effect of triggering a hearing before an administrative law judge of the Occupational Safety and Health Review Commission, which technically is independent of OSHA itself. Overall, employers win half of such appeals. The judge's decision can be appealed to the Review Commission, and the Review Commission's decision can be appealed to the U.S. Court of Appeals.

Don't be misled into paying a modest fine instead of filing a notice of contest. The "hook" is that if a violation is established and OSHA catches you in the same violation at a future time, the second offense can be termed a "repeat," even if it is committed by another employee in another place, and carry with it substantially higher fines.

Willful violations may result in criminal charges. A California tree service owner was sentenced to six months in jail and ordered to pay a heavy fine after he was found guilty of willfully exposing a tree worker to an electrical hazard, which resulted in a fatality.

A visit from an OSHA compliance officer is nothing to fear if you are in compliance with OSHA regulations. Compliance with OSHA is every employer's responsibility under the law.

- Compiled by TCI staff
OSHA’s Unlucky Seven

OSHA compliance officers may issue citations based on one of three requirements: tree care industry consensus standards, OSHA requirements for all industries, and OSHA requirements specific to the tree care industry. Here are seven of the most frequently cited violations in the tree care industry in general. The data were gathered from OSHA records.

1. **OSHA’s General Duty Clause.** This clause states that employers must provide a workplace free of recognized hazards. An OSHA compliance officer will use this when he sees an unsafe act or condition, but cannot find a specific reference in OSHA requirements. Instead, he cites the employer under the General Duty Clause, and makes specific reference to an industry standard, such as the ANSI Z133.1 Standard.

2. **Aerial lifts.** Citations include those for uninsulated lifts being operated closer than 10 feet to energized conductors, operator failing to use a body belt and lanyard, exceeding the load capacity of the boom, failing to use outriggers, or moving the vehicle with the boom elevated.

3. **Failure to use personal protective equipment.** This includes head, eye, and face protection as well as breathing apparatus and protection for body extremities.

4. **Failure to adequately prepare for medical emergencies.** The employer has to ensure the ready availability of a medical facility. If this is impossible, employees must be trained in First Aid and a physician-approved First Aid kit must be available at the work site.

5. **Failure to post an OSHA-provided notice to employees of the protections and obligations afforded by the OSHAct.** The employer must post this notice where notices are usually posted in an area frequented by employees.

6. **Failure to report accidents.** If an employee is killed on the job or more than five employees are hospitalized as the result of a workplace accident, the employer is obligated to notify the nearest office of the area director of OSHA, U.S. Department of Labor, within 48 hours.

7. **Failure to post occupational illnesses and injuries.** Employers with 10 or more employees must post OSHA’s Form 200—Log of Occupational Illnesses and Injuries—in a conspicuous location.

—Peter Gerstenberger and Tom Clancy

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TREE CARE INDUSTRY - JULY 1990
Workers Comp

Steps You Can Take To Reduce Insurance Costs

By Kay Johnson
NAA Director of Management Services

In response to the rapidly increasing cost of workers compensation insurance, employers are trying to control costs through reforms aimed at reducing litigation, controlling overuse of benefits, establishing payment guidelines and medical fee schedules, and improving administrative efficiency. Following are a few facts collected from an article in the March 1990 issue of Nation’s Business and the National Arborist Association.

—For companies involved in potentially hazardous work, workers compensation rates exceed 10% of the total payroll.
—Medical costs represent 40% of benefit costs.
—Average total cost of a claim which involves lost work time is $10,000.
—4% of all full-time workers experienced some form of job-related illness in 1988. NAA statistics indicate that 17% of tree care workers experience job-related illness or injury.

According to those statistics, overall operating insurance costs between 1988 and 1989 within the tree care industry have increased as a percentage of operating expenses ranging from .1% to 1.7%. Firms with under $250,000 in sales revenue were the hardest hit. For example, if XYZ Tree Care had operating expenses of $100,000, it paid $7,200 (7.2%) in insurance costs in 1988. In 1989, XYZ paid $8,900 (8.9%) for insurance. A substantial portion of the increase was for workers compensation.

What can be done to keep workers compensation rates at the lowest possible level? In the March issue of Nation’s Business, Robert J. Will, of Rate Consultants, Inc. of Minneapolis, suggests the following steps.

Maintain an effective safety program. Become familiar with the various safety programs available. The NAA provides a variety of safety training programs. Local hospitals and occupational health organizations also provide information and safety training. While the training program is important, constant attention to job safety by workers must be a management priority.

Keep employees happy. Satisfied employees are less likely to be hurt than dissatisfied employees. Research indicates that there is a direct connection between absenteeism and injury. Developing strategies to reduce absenteeism may reduce injuries.

Pay premiums only on straight time. Most states do not require paying premiums on paid holidays, vacation time, sick leave, or employer contributions to employee savings plans. Be sure to check into individual state requirements.

Pay small claims yourself. Paying small claims may result in lower future insurance premiums. However, claims that you pay for yourself should be reported to your insurance company in case that small claim develops into more extensive claims.

Ask for a premium discount. In some states, an underwriter can give your company a "schedule rating" discount if he has reason to believe your company is safer than average. Showing the insurer that you are making changes which will markedly reduce injuries may enable him to offer you a “schedule rating” discount.

Find and correct clerical errors. Ask for your company’s loss statement from your insurance carrier and review the loss statement at least yearly to find any errors. Some common errors are incorrect loss-reserve amounts and payments for people who are not your employees.

Change employee classifications. Workers compensation rates are set by the states. Some states base their rates upon employee classification. For example, a tree climber and an office clerical person may be classified in different categories with different rates.

Get bids for several agents yearly. When soliciting competitive bids, clearly state the level of service you want in writing. This will assure you that the bidding insurers are providing bids on the level of service you require.

Change insurance companies. Prices for workers compensation coverage may vary as much as 40% from company to company as a result of the insurer’s willingness to offer a favorable experience modification or reclassify employees to get your business. Cutting insurance costs may mean changing companies.

Controlling your costs means being aware of the workers compensation rules and regulations within your state and employing cost-management strategies that are appropriate. Becoming active in the process of reform by contacting lawmakers in your state may also result in lower workers compensation costs.
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The X-factor
Why Companies Are Vulnerable To Union Organizing Attempts

By Steven R. Semler

Assume two tree care companies in the same area each pay their employees $9 an hour. The union makes a pitch to both groups of employees, baiting them with “promises” of $12 per hour. One company’s employees embrace the union like flies to flypaper. The other company’s employees have no interest whatsoever in the wares being peddled by the union organizer.

How can these two dissimilar responses be explained? What is the intangible “X-factor” that renders one company vulnerable to union organization while that same union has little appeal and attracts no interest from employees of the neighboring company?

While the union’s appeal may be packaged on the issues of wages and benefits, it is very rare that we see an organizing campaign driven on just those issues. There is virtually always an intangible “driver” that fuels the union’s campaign among employees. It is the presence of the intangible “X-factor,” therefore, that renders one company vulnerable to union organizing attempts while leaving another untouched.

Common X-factors
The following are some of the more common “X-factors.”
- Employer shows no interest in soliciting employee’s job-related problems or concerns.
- Employees are chewed out in front of others, thus compromising their sense of self-worth.
- Employer applies rules in inconsistent fashion, thereby “playing favorites” (and also, incidentally, creating exposure to EEO claims).
- Supervisors are arbitrary, concerned only with production levels and little else.
- Employees sense lack of job security—hired when needed, dumped when slow.
- Lack of bonding to the company; people are treated like “things.” Edicts issued from distant central offices do not bond employees to a company. A good local manager can make the difference.
- Failure to foster a sense of group accomplishment. Employees who are given some latitude to determine how to accomplish company goals take pride in the company’s success and have no desire for third-party (“union”) interference.
- Arbitrary company actions.

At least one of the above X-factors is present in almost every union campaign we encounter. In our experience, it is the intangible X-factor, rather than the tangible issue of wages and benefits, that determines a company’s (or a division’s) vulnerability to union organizing activity. Attention to these issues should, therefore, help a non-union tree company stay that way.

Steven R. Semler, of Semler and Pritzker in Washington, D.C., serves as labor counsel to the National Arborist Association and to corporations in the tree care industry.
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July 1990 Issue
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Fanno International, a service of Fanno Saw Works, is giving the arborist trade a "new edge" on pruning with a new saw tooth design. Special features of the model #FI-1311 include a thicker saw blade body and an improved laminated hardwood handle. The razor-sharp blade with six teeth per inch gives an extra smooth cutting action. Model #FI-13s-B is the same blade designed for a pole saw mount. For further information contact Fanno Saw Works, P.O. Box 628, Chico, California 95927; (916) 895-1762; FAX (916) 895-0302.

A new chain saw that is among the lightest and the most powerful in its class is now available from Husqvarna Forest and Garden Co. The Husqvarna Husky Model 42 features a 2.5-cubic-inch (42 cc) engine that delivers high power and a maximum engine speed of 14,500 rpms. The Model 42 offers Husqvarna's two-mass antivibration system. For more information about the Husky Model 42 chain saw, contact your local Husqvarna dealer or call 1-800-GET-SAWS (1-800-438-7297).

Vermeer Manufacturing Co. has introduced a heavy-duty, self-propelled stump cutter for rental operators and commercial users. The Model 206 Stump Cutter cuts out stumps 10.5 inches below and 21 inches above ground level. It is powered by a Kohler M20S gasoline engine, which operates at 19.25 hp. The self-propel feature makes the unit easy to maneuver. It is designed to withstand non-stop use. For further information contact Vermeer Manufacturing Co., P.O. Box 200, Pella, Iowa, 50219, or call 515-628-3141.

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Municipal Tree Ordinance Manual Available

The International Society of Arboriculture announces the publication of the Municipal Tree Ordinance Manual, an updated and revised edition of A Standard Municipal Tree Ordinance, published by the ISA in January 1972. This publication has been updated and revised by the Municipal Arborist and Urban Foresters Society of the ISA and incorporates a new format which should prove useful to both arborists and interested citizens.

The new manual consists of five parts to assist in ordinance development. Part I, Introduction, reviews the thoughts concerning ordinances and ideas on what process to follow. Part II, Ordinance Sections, lists and briefly describes various sections which can be included in an ordinance. Part III, Sample Ordinances, shows examples of ordinance styles. Part IV, Standards and Specifications, gives examples of arboricultural subjects that need to be covered in more detail but need not necessarily be an integral part of an ordinance. Part V, Guide for Municipal Forestry Contract Specifications, provides general contract information for bidders and specific work recommendations.

The Municipal Tree Ordinance Manual may be purchased for $25 from the ISA. When ordering, please identify the manual by title. Send check or money order to: ISA, P.O. Box 908, Urbana, IL 61801.

For additional information, contact the ISA office at the address above or call (217)328-2032.
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Sponsored by Tree Care Industry Magazine, published by the National Arborist Association, and co-sponsored by the International Society of Arboriculture.
A Tree Grew

By Peter Felix

Many tree crews encounter difficult situations performing tree removals. I would like to share an experience that might make some of those situations seem less difficult.

Although our company is based in Nassau County on Long Island, New York, we occasionally make service calls in Brooklyn and Queens, boroughs of New York City. Brooklyn is approximately 30 miles from our warehouse. On a good day, it will take over an hour and a half to reach a destination in the western part of Brooklyn. The roads are not only overcrowded with traffic, but are lined with pot holes, stalled vehicles and other road hazards.

On this particular day we were sent to Brooklyn to do a removal. The trip took its toll on us. We were getting tired from the stop-and-go traffic and my leg was sore from riding the clutch all morning.

When we found the address of the brownstone we were looking for, we had to drive past it because there was no place to park the truck. After navigating our way through the one-way streets, we were lucky that someone had pulled out from a spot three doors down from the job. This wasn't your typical parking spot; it was a spot where our truck and chipper would be double parked but out of the way of traffic. The cones we set out were practically under the chipper and truck and were pretty much useless.

The men on the streets drinking out of paper bags made us realize that one of us should stay with the truck while the other rang the doorbell. This was a typical brownstone apartment complex—a straight row of houses all connected with no alley or side yard between them. This one had a lengthy flight of stairs leading to the front door.

Mrs. Mint invited me in and led me through a series of narrow hallways, through the living room, through the kitchen and out a sliding glass door that led to the deck. The tree was staring me right in the face but my attention was aimed at the iron spiral staircase that led from the deck to the tree.

The tree was 40 feet tall with a 30-foot spread. The yard was 20 feet long and about 15 feet wide. I looked at the work order: Remove one mulberry tree rear of property. Remove all resulting debris.

I looked again at the tree. I looked at the trunk diameter. I looked back at the iron spiral staircase. I looked for a way out. I pictured the narrow hallways. I thought about the men drinking out of paper bags. I looked back at the work order wishing it was a want ad for a job in a shoe store.

I thought if we really worked as fast and as hard as we could, we might be able to get the job done and be home by 9 that night. I went out to the street and got my partner. We took turns carrying equipment through the house. I looked at my watch and timed myself as I walked through Mrs. Mint's house with a pole saw. It took three minutes without scratching any of the walls.

We brought all the expensive equipment except for the chipper into Mrs. Mint's backyard. We decided the best way was to go up and remove the tree one section at a time. Since I knew it would be a long affair, I decided to see just how much brush I could carry at one time. I also wanted to see how much Mrs. Mint would let me get away with. As I came through the house with less than I started with (thanks to the spiral staircase), I asked Mrs. Mint to move her coffee cup out of my way. She yelled at me and said sternly, "Do you think you could cut that up smaller? I don't want to have to repaint my walls, ya know."

By 6 p.m. we had all the brush out of the yard and chipped. Mrs. Mint still had at least one coat of paint on her walls but still had some wood in her back yard. We had filled the truck to the brim with chips and had barely enough room to put tools. We told Mrs. Mint that we would come back for the wood the next time we were in Brooklyn. She was a good sport, thanked us and gave us a tip. Not money, some advice: she told us that the next time we have to take a tree down in that situation, try using a helicopter.

Editor's Note: Peter Felix is employed by F. A. Bartlett Tree Expert Company in New York.

Do you have a story for From the Field? TCI will pay $50 for published articles. Submissions become the property of TCI and are subject to editing for grammar, style and length. Entries must be submitted by field workers and must bear the name of the worker and his employer or they will not be considered for publication. Articles and photos must be received by the first day of the month for the following month's issue.
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