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SPALW Newsletter

(Safety Professionals & the Latino Workforce)

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SPALW Preparing for the Year Ahead

"Hola" to all SPALW and ASSE members! I hope this newsletter finds you safe and well. Since taking over as SPALW Chair, the past few months have been very busy and exciting. Our membership continues to increase, and we are actively spreading the word about SPALW.

Much in our world has also changed—we have a new President-Elect, our economy is in turmoil, companies are closing plants and laying off employees, all while we are told to "do more with less." This environment challenges our ability to make a positive impact on employee safety, including the safety of Latino workers.

Its times like these that we as a safety community must work together to find new and innovative ways to further the cause of safety, and SPALW is one way to do just that.

The SPALW membership has launched several initiatives that will positively impact Latino workers in the U.S. and worldwide. For example, our participation in the OSHA/ASSE Alliance has led to the translation of fall protection training materials into Spanish for dissemination to those who work with Latino workers.

A SPALW subgroup is planning our meeting at Safety 2009 where we expect attendance to equal or exceed Safety 2008. Stay tuned for an interesting and impressive meeting agenda!

SPALW is also working to increase its membership in the U.S. as well as in Mexico and Latin America. SPALW members are working at the grassroots level in Mexico to form an ASSE chapter within the next calendar year.

As we enter the holiday season, we all must keep safety at the forefront. There will be family gatherings and parties to attend and trees and houses to decorate—we must ensure these are done safely. As SH&E professionals, we must also ensure that all of our workers, including our Latino workers, take safety home with them so they and their families can enjoy the holidays without injury.

I wish you a happy holiday season and look forward to a safer and prosperous 2009.

Muchisimas Gracias!
Zeferino Banda Jr., CSP
SPALW Chair



New SPALW Subcommittees Formed

By Diana Cortez, SPALW Vice Chair

One of SPALW's goals includes the development and sharing of new training materials to help employers and SH&E professionals address the challenges of educating the Hispanic workforce on safety and health preventive measures.

Consequently, SPALW has implemented three new subcommittees to work on the following tasks:

1. Develop training materials for residential roofing.
2. Translate training materials from English to Spanish.
3. Review already-translated training materials for accuracy.

Subcommittee members will work on the development of new Spanish language training materials for residential construction; translate into Spanish safety and health documents developed by OSHA Alliance partners and review Spanish language materials prepared by OSHA Alliance partners for accuracy.

The response has been overwhelming. Twenty-three SPALW members have volunteered to tackle these tasks with great enthusiasm. We would like to take this opportunity to welcome and congratulate the subcommittee members:

- Andres Becerra
- Saul Campos
- Tom Davis
- Camilo Estrada, Jr.
- Ricardo Garcia
- Arnold Gomez
- Rocio Gonzalez
- Steven Haver
- Mark Hernandez
- Luis Mendez
- Manuel Morales
- Victor Pacheco
- Oscar Peredes
- Jose Perez
- Adolfo Reynaga
- Silvia Janet Rivera
- Sharon Roman
- Guadalupe Sandoval
- Mery Senté
- Ivan Siguencia
- Mario Varela
- Jose Velásquez
- Wilmarie Villanueva
- David Wirges

Zeferino, Ernie and I thank all volunteers for their commitment to safety and health, and we look forward to working together on these tasks that will help employees and workers prevent workplace accidents.

If you have information, training materials, PowerPoint presentations, etc. on residential construction and would like to share them with committee members, please e-mail them to me at cortez.diana@dol.gov. We will share these documents as they become final and will also post them on the SPALW website.

Join SPALW!

The Latino workforce continues to grow rapidly. According to the U.S. Bureau of Labor Statistics, the Latino workforce is projected to increase to 26.9 million, a growth rate of 29.9% from 2006 to 2016.

SH&E professionals must keep up with the challenges of the growing diverse workforce. SPALW is ready to assist you in meeting these challenges by working together to share best practices, available resources and to develop training materials as well as new ideas.

SPALW membership is free to all ASSE members. To join SPALW, contact jcappello@asse.org with the subject line "Join Safety Professionals and the Latino Workforce."

Please also send us your feedback on our website, <http://www.asse.org/practicespecialties/spalw/index.php>. One of our goals is to continuously improve and populate our website with available resources and training materials to assist you in serving your Latino workforce. We would love to hear from you!

The Safety Train

By Antonia Gómez

Occupational safety and health is like a train, with its stations and boarding and alighting passengers (enterprises), leaving from its departure station (Law 31/1995). Its destination station (zero tolerance and accident rate) is the common objective for its passengers (enterprises). Continual improvement must be largely dynamic due to the varying nature of emerging work types. This dynamism forces us to find out where we are heading to modify and update both legislation and company procedures with the aim of preventing and avoiding or minimizing risks, thus arriving at our destination station—zero tolerance and accident rate.

This article follows the journey of enterprises on the "Safety Train" starting from the enactment of the Law of Health and Safety at Work (Law 31/1995), making a stop

at the Integrated Preventative Action “station” (Royal Decree RD 604/2006) and heading for the “destination” of zero tolerance and accident rate.

The alighting enterprise “passengers” at the different “stations” of Law 31/1995 and complementary and satellite legislation are those who have brought about the high accident rate and the search for individual culprits has led to diminished corporate culpability. This desire to blame the worker or the entrepreneur bypasses the responsibility of the chain of command.

In fact, the legal requirements are virtually impossible for just one person to carry out. Thus, Article 1.1 of Royal Decree RD 39/1997, by virtue of which the Regulations for Preventative Services (RPS) are approved, states, “The prevention of risks at work, as an activity to be carried out within the heart of the company, must form an integral part of its activities and decisions, with respect not only to technical processes, the organization of the work and the conditions in which this is performed, but also the company’s hierarchical structure, including all its levels.”

At the Integrated Preventative Action “station” (RD 604/2006), which states that the responsibilities of the chain of command must be placed in writing, we only have to get off to “drink water and take a breath of fresh air” before continuing the journey to our destination—zero accident rate.

Does this mean that the entire workforce of an enterprise is involved in preventative action? The involvement of all hierarchies means that prevention of risks at the workplace implies obligation on the part of the whole workforce of the enterprise and within the realm of competence of each worker (i.e., integrated prevention).

It is important that the safety measures adopted for each worker at his or her workplace be a shared responsibility with which everyone identifies and participates. Integration at all hierarchical levels of the enterprise involves the assignation and assumption of including occupational risk prevention as a part of each and every activity the worker may order or perform and in every decision the worker may make.

In this sense, Article 29 of the Law of Health and Safety at Work states that it is the duty of every worker “to ensure, to the best of his or her ability, that the appropriate safety practices are implemented,” which shows that, while the entrepreneur is clearly the person who runs the workplace and who, having the power of management and organization, is basically responsible for such safety practices, this implementation would not be possible without insisting upon workers’ collaboration, and this must be imposed, where necessary, using the disciplinary powers of the entrepreneur.

Risk prevention lies essentially in the hands of the two agents who most directly contribute to production: the enterprise and the employee. Accordingly, the law establishes the duty of the worker to satisfy all health and safety measures adopted. Article 5b of the Workers’ Statute states, “Workers basic duties include honoring existing safety and hygiene measures.” This point is reiterated in Article 19.2 of the same law: “at the workplace, the worker is bound to observe the rules and regulations of safety and hygiene.” The Law of Health and Safety at Work states the obligation of workers to ensure, to the best of their ability, that appropriate safety practices are implemented, both for their own safety and health at work and for that of anyone who might be affected by their professional activity or by their acts or oversights at work, in line with their training and the instructions of the entrepreneur.

We arrive at the departure station with certain premises:

1. Temporary employment is involved in every type of occupational accident.
2. Work experience reduces the number of serious and fatal accidents, although above a certain level, the rate actually rises.
3. Excessive working hours raise the accident rate.

As we set out, there is a high and increasing incidence of accidents. Between all of the “stations” along the route, we look at the scenery in Article 15.4 of Law 31/1995, “The Duty of Prevention.” The extent of the entrepreneur’s obligation to prevent occupational hazards is defined in Article 15.4, which says that the effectiveness of safety measures must prevent non-criminal negligence or distraction on the part of the employee.

Therefore, safety measures adopted by the enterprise must prevent worker carelessness or overconfidence classifiable as simple or non-criminal negligence.

This duty of the entrepreneur to act in the prevention of risks must be performed within the principles for preventative action laid out in Article 16 of the Law of Health and Safety at Work (draft Law 54/2003), now titled “Plan to prevent occupational hazards, risk assessment and planning of preventative activities.” Thus, prevention is integrated into the overall management system of the enterprise, defining the essential tools for such management with the aim of:

- a) preventing risks at their point of origin
- b) evaluating those risks that cannot be avoided (including initial, continual and fortuitous assessment)
- c) personalization of workplaces

Furthermore, we should bear in mind the evolution and advance of the technique, which must be incorporated

into the hazard prevention plan of the enterprise and be placed in writing and made available to labor authorities.

Likewise, it is important to remember Articles 18 and 19 of the Law of Health and Safety at work, which regulate the content of the twin duties of the enterprise to guarantee information and training.

The duty of prevention described in Article 15.4 of the Law of Health and Safety at Work has been misinterpreted by many enterprises, which believe that when a manager delegates competence to another worker, s/he is then exonerated of all associated responsibility.

Another common mistake made by the management of certain enterprises is the belief that by outsourcing a specific service or task, their company has freed itself of all responsibility.

We are faced with safety and health legislation based on bureaucracy, one which rarely obliges action. We complete the forms and think we have freed ourselves from blame.

Hazard prevention must be a daily practice based on continued vigilance, without falling into the trap of avoiding responsibilities by means of outsourcing as an external measure and delegation as an internal one. The legal support of integrated management is required, where the entire chain of command feels involved.

As we travel through the countryside, we see stretchers and coffins and do not know why. It is a hair-raising experience. The train has stopped, but there is no "station." The line is under repair.

The legal mechanism for addressing current dynamism in the world of work (the influx of new technologies, information and communication, new ways of working, the introduction of immigrants into the workforce, etc.) is extremely extensive and highly complex.

With regard to enterprises and workers, extensive regulations with a high technical content, lack of knowledge of these in micro and small enterprises, the appearance of so-called emergent risks and the inclusion of prevention management in company structure have all led to difficulty in the assimilation of new safety measures. This calls for a change in the habits of both entrepreneurs and workers.

In line with the Spanish Constitution, the labor administration is responsible for the enforcement of current labor law and must have adequate human resources, an appropriate budget and suitable technical facilities.

The line has been modified, and we wonder if we should continue to our destination station. The train is about to make a stop. All enterprises wishing to alight do so while keeping in mind that walking out will result in an increased accident rate and penal responsibilities.

We should not flee from our responsibilities. We should put them in writing as required by the RD 604/2006 amendment to RD 39/1997. Even though we must always make amendments to adapt to the labor market, we should be responsible in occupational safety and health.

Once we have identified the responsibilities and risks, we should strive to prevent those risks. Will it be by strictly obeying current legislation? Will it be by putting control and follow-up mechanisms into place?

Examination of the situation reveals our strong points and weak points. Shall we maintain the strong points and improve the weak ones? Do we conduct a safety audit or are we to be audited?

RD 604/2006 stipulates audit accrual. This is somewhat complicated, but it may be useful in our diagnosis as long as we follow up.

It is important to ensure that:

- The environment is safe—hygienic, physical, chemical and biological conditions should all be checked
- All machinery, installations and tools are safe
- Suitable personal protective equipment is available for each task
- Safe working methods are employed when performing each task
- Workers are aware of the risks and knowledgeable of the working methods
- All procedures described by the entrepreneur are carried out

If results are positive, the enterprise accepts improvement action. If results are negative, management plans and accepts treatment. RD 604/2006 states that preventative planning must be separate from prevention planning and that management must monitor this, where possible, at three-month intervals. We will all be held accountable (the involvement of those responsible). The train moves onward.

Since the previous stop, those enterprises that did not leave the train have assumed their responsibility and, assisted by central, regional and local government, wish to arrive at their destination. And what a station it is—accidents are the product of work done poorly, lack of knowledge of working methods, the absence of personal protective equipment, lack of motivation to do a good job, inability to work well and ignorance of how to do the

job well. If this continues, we will repeat the same accidents. We must improve, and improvement means change. Changes do not happen by themselves. Independently of material requirements, we need the will to carry out these changes and a willingness to face facts. We must think positively.

Action Plans are drafted in all working environments, aimed at subsidizing and assisting hazard prevention in enterprises. However, it is at the autonomous community level where more plans are aimed at:

- Actions to reduce accident rates
- Action plans for specific areas
- Announcement of grants and incentives for hazard prevention
- Training activities for entrepreneurs and workers
- Incentive policies for occupational safety and health

At the zero tolerance and accident rate "station," questions such as "What happened?", "How did it happen?" and "Who did it happen to?" will disappear.

We may see perfection in every dust particle, but this does not stop us from cleaning it. Perfection does not disappear but turns into a clean surface. There is always an improvement action. In occupational safety and health, improvement action is compulsory. We are saving lives.

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SPALW Wants Your Articles!

SPALW invites you to submit your articles on SH&E best practices within the Latino workforce for inclusion in future newsletter issues.

Articles should be e-mailed to Newsletter Editor Valerie Stakes at vstakes@rqconstruction.com in Word format.