

In the News

Unions Sue Labor Department Over Safety Gear

Worker advocates argue that employers should pay for personal protection equipment

On January 3, the AFL-CIO and the United Food and Commercial Workers union filed suit to force OSHA, a division of the Department of Labor, to issue a long-promised ruling making employers responsible for paying for workers' personal protection equipment (PPE). The issue has been a source of contention since the early years of the Clinton administration. In 1994 OSHA published a rule requiring employers to provide their workers with whatever PPE was needed to protect them from workplace hazards. Although OSHA leaders at the time said they intended "provide" to mean "pay for," employers have argued that there is nothing in the wording forbidding them from back-charging workers for the cost of the equipment.

Not surprisingly, union officials disagree. "When there's a legal obligation for the employer to provide the equipment to protect the worker, our view is that they should pay for it," says Peg Seminario, director of safety and health for the AFL-CIO.

"You're not providing it if you say, 'Here, wear this, and it's going to cost you fifteen bucks,'" adds Dale Shoemaker, a senior technical coordinator for the United Brotherhood of Carpenters and Joiners.

Even employers who willingly bear the burden of paying for hard hats, respirators, and the like have questions about

whether — and how often — they are required to replace protective devices that are lost or abused. There's also disagreement about whether certain specialized personal-safety items, such as welding masks and trade-specific gloves, ought to be considered "tools of the trade" — equipment, in other words, that a skilled craftsperson is expected to furnish as a condition of employment, like a hammer or saw. In the past, OSHA has said that employers need not pay for items that can be worn off the job, such as prescription safety glasses and steel-toed safety shoes.

In 1999, the agency promised that a final PPE rule — which would

■ If a recent survey is to be believed, home builders who incorporate more green into their building practices end up with more green in their pockets. Of the 250 residential builders from around the country polled by Green Builder Media (www.thegreenbuilder.com), a Vermont consulting firm, more than half reported that buyers are willing to pay a premium of as much as 25 percent to get a green-built home. Ninety-six percent of the respondents said they intend to increase their use of environmentally friendly products and building practices in 2007. Concern for the environment was the No. 1 reason builders cited for going green, but most readily admitted that buyer demand and higher profit margins were also important factors.

■ Insurance companies are taking on global warming one policy at a time, says the *Wall Street Journal*. The catastrophic weather caused by climate change means insurers have to pay on more claims; now some insurance companies are offering incentives for energy-efficient buildings as part of a broader effort to reduce damaging greenhouse gases. Insurers are also exploring ways to reduce the damage from catastrophic weather through building codes or land-use policies.



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settle once and for all who should pay the bill for protective clothing, face shields, lifelines, and other job-specific safety equipment — would be issued in July 2000. However, not long after the agency missed that deadline, the Bush administration came into office and, according to the unions, let the matter drop.

The lawsuit, which was filed in the U.S. Court of Appeals for the District of Columbia, seeks a court order that would direct the secretary of labor to issue the long-delayed PPE rule within 60 days. — *Tom O'Brien*

■ Stung by criticism after ousted CEO Bob Nardelli was allowed to walk away with \$210 million despite mediocre performance, Home Depot has restructured the compensation package for his replacement. According to a report in *Home Channel News*, incoming CEO Frank Blake will have to make do with a base salary of \$975,000 per year; unlike his predecessor, Blake gets no guaranteed bonus or severance benefits. Still, it won't be Ramen noodles and canned beer for the new boss: Blake could make as much as \$9 million in his first year through performance-based incentives largely tied to the company's stock price. Nardelli averaged \$38 million per year during his tumultuous six-year reign.

■ Job-site safety may be a higher priority than ever before in the construction industry, but you'd never guess it from the data compiled by one pharmaceutical company. According to the "America Hard at Work" poll commissioned by GlaxoSmithKline, maker of pain-relief medications, 28 percent of Americans believe that construction workers have the most painful jobs in America. Armed services personnel came in second, with 16 percent of the vote, followed by professional athletes and farmers. The pollsters found that 70 percent of working Americans — regardless of occupation — say they experience some sort of discomfort on the job, with back pain ranking as the No. 1 complaint. Nearly one in five respondents reported suffering pain every day. Ouch!

Lennar Asks Subs For Givebacks

As the building boom continues to fizzle and the industry's biggest names take turns posting record losses, more and more builders are tightening their belts and asking their trade partners to lower their bids for upcoming jobs. But at least one very large company isn't stopping there: It's pushing for lower prices for *past* jobs, too.

According to a story in California's *Orange County Register*, Lennar Corp. — which made \$1 billion in profits in 2005, but reported a \$196 million loss for the fourth quarter of 2006 — is asking subcontractors in five Orange County developments to lower their charges for work already completed. Various subs who spoke to the paper said they received a letter from the company stating that they would be "excluded from bidding future work for a minimum of six months" if they didn't reduce their unpaid invoices. The requested cuts purportedly ranged from 5 percent to 20 percent, depending on the trade and location of the sub.

The paper added that Miami-based Lennar, which has projects in at least 12 states, has made similar requests of subcontractors elsewhere. — *T.O.*

RECALL

DeWalt is recalling about 13,000 portable generators because of a faulty ground-fault circuit interrupter that may not protect users from electric shocks. The recall involves DG2900 2900-watt gasoline-powered generators with date codes 200150 through 200635.



These devices were sold from December 2001 through November 2006. For more information or to

arrange for a free repair, contact DeWalt at 888/742-9108 or visit www.dewalt.com.

■ In January, an executive from an Indiana concrete-supply company was sentenced to 14 months in federal prison for his role in a conspiracy to fix the price of ready-mixed concrete. Gus “Butch” Nichols III, president of Builders Concrete and Supply Co., the second largest supplier of ready-mix in the Indianapolis area, was also ordered to pay a \$50,000 fine. In December 2005, four executives from the region’s largest supplier, Irving Materials, were fined and sentenced to five-month jail terms for taking part in the scheme, which federal antitrust officials say involved an agreement to raise prices and drop discounts. Other co-conspirators have been convicted and await sentencing.

Energy Efficiency Tax Credit

Under the Energy Policy Act of 2005, builders of qualified energy-efficient homes may be eligible for a credit of up to \$2,000 per home when they file 2006 and 2007 taxes. To meet IRS qualifications, a home must be located in the U.S.; have been substantially completed after August 8, 2005; and have been acquired from the eligible contractor after December 31, 2005, and before January 1, 2008, for use as a residence.

In addition, the building must meet specific energy-saving criteria. For a site-built home, requirements include a 50 percent reduction in energy consumed by heating and cooling equipment, and an improved building envelope that, in itself, reduces energy consumption by at least 10 percent. Those energy savings are based on a comparable-sized home that’s built to comply with the standards of the 2004 Supplement to the 2003 International Energy Conservation Code.

Energy-efficient manufactured homes are also eligible for tax credits.

For more information, visit www.irs.gov and type the words “energy credit” in the search box. — *T.O.*