



**Business Practice Information**

**June 18, 2010**

### **When does an OSHA Inspection affect the Engineer?**

With the evolution of design/build engineers find themselves more susceptible to OSHA inspections and fines. It is a question of whether the work the engineer is doing rises to the level that permits OSHA to cite them. There are two tests that can determine this. 1. Did the engineer use the jobsite as a place of employment 2. Was the engineer engaged in construction work? The first depends on the amount of time the engineer spends on the site and if they maintain an office or a trailer. The second depends on whether or not the engineer has the authority to direct or stop the work of the contractor. Engineers serving as construction managers have definitely been found to be subject to citations.

### **Abuse of Process and Malicious Prosecution**

Both can be effective weapons but are hard to prove. Abuse of process is using the legal system for something it was not intended. You have to show there is an ulterior motive such as a form of extortion. Malicious prosecution is bringing suit with an evil, wrongful or improper motive or a reckless disregard for the rights of others. In both cases you have to show, among other things, there are damages. Damages are the attempt to measure in financial terms the extent of harm a party has suffered.

### **NEHRP Recommended Seismic Provisions for New Buildings and other Structures**

The stated purpose of this newly revised document, jointly published by FEMA and the National Earthquake Hazards Reduction Program (NEHRP), is to prevent serious injury and life loss due to earthquake ground shaking. The most significant change in this edition (7<sup>TH</sup>) is the incorporation by reference of national consensus design loads standard ASCE/SEI 7-05, *Minimum Design Loads for Buildings and other Structures*. Copies of this publication on CD are available from FEMA at 800 480-2520. It can also be downloaded at [www.bssconline.org](http://www.bssconline.org).

### **State to State**

Looking for business in another state? Know the rules. In some states you can't advertise or even solicit work without being registered. Don't get accused of practicing engineering without a license. You must be registered and have a Certificate of Authority, usually issued by the Secretary of State, to do business. To get that certificate you have to supply a lot of information. However, in many cases what you have given the state where you originally started your business is acceptable to other states. Fortunately [www.contractscentral.net](http://www.contractscentral.net) has state-by-state information on this and more that you will need including:

- reciprocity for your license,
- lien laws,
- sealing and stamping requirements and
- links to state engineering and land surveying boards.

Everything you need to get a new office up and running.

*If there are others in your firm that you believe could profit by receiving this newsletter please respond with their contact information to [htalbert@acec.org](mailto:htalbert@acec.org).*