

The Competent Person Debate

The cover of a recent issue of the National Safety Council's "Safety+Health" magazine caught my attention for a couple of reasons. First, I know the NSC's flagship publication is typically filled with current, relevant, industry-specific information. Second, the cover feature mentioned something called a "Competent Person". As a former English teacher, I didn't think I needed a vocabulary lesson, but when I saw this term in context on a safety magazine, I had to give it a second look.

I'm sure those of you in the trenches with OSHA have had more experience with their plethora of rules-specific terminology. But just in case you haven't, take a look at the following article, which sheds a whole new light on the idea of being competent:

What is a 'competent person'?

OSHA's requirements for the term extend beyond simply designating someone with the title

KEY POINTS

- A competent person needs to not only recognize hazards, but be in a position to mitigate them.
- It is possible to have an individual who is competent in many tasks, or to have multiple competent people for several different tasks.
- While some experts believe hazard training is important, others assert that general "competent person training" does not exist.

When a boss calls an employee a "competent person," it is not necessarily a compliment – it is a legal obligation.

A competent person is an employee who is able to recognize hazards associated with a particular task, and has the ability to mitigate those hazards. Many OSHA construction standards require someone onsite – such as a foreman, supervisor or other employee – to be designated as a competent person.

However, OSHA does not have a specific standard regarding a competent person, which has led to some confusion.

"It's a fairly misunderstood term," said Phil Colleran, a Riverside, IL-based safety consultant specializing in construction and a former OSHA compliance officer. Some people may believe they can be considered a competent person because they attended a class or a boss arbitrarily assigned the title to them – although neither is necessarily the case, Colleran stated.

Knowledge and action

A competent person should not be chosen lightly, experts say, because he or she needs to be qualified to identify the hazards associated with a particular operation. For instance, if work is being performed on scaffolding, the competent person must be knowledgeable about scaffolding hazards.

This knowledge can come from a person's skills, experience and training, according to Kevin Cannon, director of safety and health services with the Associated General Contractors of America in Arlington, VA. Training, which Cannon called key, can provide the individual with information from particular manufacturers or on various OSHA standards that will help him or her identify hazards.

Colleran warned against general "competent person training," and stressed that fitting the description goes beyond what is learned in a classroom. "Just because you sat through a 10-hour course isn't alone in determining your competency," he said. "Competence is demonstrated, not certified."

Part of that demonstration entails the competent person being able to immediately correct any hazards that may appear. If that person is unable to do so, he or she would not fit the definition of competent person, Colleran said.

This is where part of the confusion with the term resides, according to Cannon. "You can have an employee who's competent but may lack the authority to take any corrective action," he said. "Employers need to make sure the employee identified as a competent person has such authority granted to them."

Proper person

Because many different types of activities can take place on a worksite, a competent person must either have the authority to make safety-related changes to those different operations or know who can enforce those changes.

For instance, imagine a site where some workers are on a scaffold several yards downwind from a mason subcontractor performing cutting work. Because the scaffold workers are being exposed to dust and other potentially hazardous debris from the masonry work, and the masons are not under direct control of the competent person for the scaffolding work, the competent person must mitigate the situation by going to the general contractor.

A large worksite with different operations going on at the same time also may require more than one competent person, Colleran suggested.

"There is nobody who is all-competent," he said. "There are many types of many competent persons based on the fact [that] there are many specialized activities out there, and you can't be competent in all fields."

This does not have to be the case in every situation, however. If an individual has experience in two different types of work being done onsite – trenching and use of ladders, for example – that person could serve as the competent person for both tasks, Cannon said.

Additionally, a competent person could be somewhat of a generalist, according to Colleran. This person does not need to know all the ins and outs of every OSHA standard on the jobsite, but could be considered a competent person if he or she is able to recognize when something may present a risk to workers – such as an unguarded platform – and can act when such a risk is identified.

In some respects, designating a competent person is similar to instituting a workplace safety and health program – both have goals of identifying and mitigating hazards. Cannon believes that employers who have a competent person working likely have already implemented some type of injury and illness program.

“If you’re aware of the need of a competent person, it’s not by chance. You understand what your responsibilities are,” Cannon said.

OSHA inspection

When OSHA visits a site, one of the first questions an inspector may ask is who the competent person is. (If not with those exact words, then by asking who may be in charge.) The agency inspector may then question that individual about his or her knowledge to ensure the work being performed is done so under the oversight of a truly “competent” competent person, according to Colleran. The requirement for competent person goes beyond simply designating an individual with that title, he said.

Colleran suggested employers ensure all employees have the ability to recognize hazards and the knowledge to mitigate them. That way, when OSHA comes knocking and asks who the competent person is, the employer can respond a little differently.

“The logical answer – if the company was really operating consistently with best practices – would be, hopefully, ‘everyone,’” Colleran said.

Sources:

Kyle W. Morrison, National Safety Council senior associate editor, full text available online at <http://www.nsc.org/safetyhealth/Pages/0712OSHA-Terms-What-is-a-competent-person.aspx>

<http://www.osha.gov/SLTC/competentperson/index.html>