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## *WTCA QC*

"Why Use *WTCA QC*? Reason #6?" by Kent Pagel

### REASON #6: A MEANS TO REDUCE LEGAL RISK & LOSS OF REPUTATION

Almost every product in the marketplace today carries with it some potential risk of producing harmful effects that could result in property damage and/or personal injury. When the risk becomes reality, the result for the business can be costly, and perhaps more importantly in the long-term, the company's reputation can become damaged. One time-tested way to reduce the risk of suffering through legal battles and to avoid the loss of business is to implement or improve upon manufacturing quality control measures.

This business reality undoubtedly exists in the truss and component manufacturing industry, although I must admit, measuring the degree of risk is quite difficult. Experience has shown me, however, that where quality control in the manufacturing process becomes a litigated issue, in the absence of a sound program such as *WTCA QC* Version 3.0, the outcome for the truss manufacturer can be ugly.

Quality control in manufacturing works in several ways to promote the success of one's business. First, it signifies to the customer (and perhaps a jury in the event of a legal dispute) that the company cares about the products it is producing as well as about the consumer. Second, it reduces the risk that lawsuits will occur because the increased quality of the product will reduce the likelihood of defects. It must furthermore be remembered that liability insurance generally does not cover the costs of replacing and repairing defective products. Imagine how your insurance rates would climb if insurance carriers covered replacement costs incurred as a result of the poor workmanship of one of your competitors.

I have previously written on how quality control should go beyond the manufacturing process and incorporate a sound and consistently-applied risk management program. This includes carefully negotiated customer contracts, jobsite delivery packages, good record-keeping, etc. (the list goes on to include all the topics we cover in our Truss Manufacturer Risk Management and Liability Avoidance seminars). Today I want to focus on quality control in manufacturing.

Legal scholars will tell you, and juries will unanimously agree, today's manufacturer has the duty to address product safety. Rest assured, plaintiff's lawyers use technical consultants after accidents have occurred to determine what could have been done during the manufacturing process to prevent the incident. Without some kind of quality control program in place, the manufacturer is left with little to respond to any criticism. These consultants become good at

articulating to juries or to whomever asks the question that, for example, Any Town Truss Company, Inc. failed to ensure that its manufactured products were reasonably safe for its intended uses and also foreseeable misuses and will point out what appear to be manufacturing mistakes. They do this because this is usually easy evidence to show and demonstrate to a jury—whether it had anything to do with the problem at hand or not.

A quality control program will not guarantee a positive result during litigation, but your risk of being sued or losing the suit is certainly reduced. A jury may furthermore reduce the percentage of responsibility that is attributed to you; and quite possibly, although this usually takes place indirectly, the amount of damages assessed may be less.

Two big issues surface when discussing how to reduce the liability that arises out of manufacturing:

- How do you implement a quality control standard that will reduce the exposure to liability?
- How do you maintain the standard of manufacturing and record-keeping so that the program cannot be used against you?

Many raise the concern that a quality control program simply provides a “smoking gun” for the other side to use in a litigation setting. This occurs when documentation reflects a substandard product that does not receive immediate attention and then is delivered to the customer. For example, if after a product was made but before a party was injured, a manufacturer was made aware of a defect, and either failed to take action or failed to remedy the defect properly, the manufacturer may be exposed to liability. When documentation occurs, as it should in any quality control program, a system must be implemented to address concerns and problems that arise. *WTCA QC Version 3.0*, as an example, provides that corrective or remedial action be undertaken. As a follow-up, the manufacturer should note in its documentation that the defect, or other problem, has been properly repaired.

Quality control in manufacturing is thus a two-step process. The first step is to discover any defects resulting from the manufacturing. The second step is to correct or remedy the defect. The second step must be completed once the first step has occurred. A manufacturer who fails to take remedial steps exposes itself to increased liability.

A quality control program will furthermore assist the truss manufacturer in those litigated disputes where the opponent attempts to create a misperception in the eyes of a jury or your insurance company with respect to the truss manufacturer. This reality is best described through an example.

## **REAL LIFE EXAMPLE**

A plaintiff falls off a ladder and fractures his kneecap. The plaintiff claims that a stair on the ladder had a preexisting crack causing his fall. The defendant ladder company maintains that its quality control standards are above those used in the field. In deciding the case in favor of the defendant, the jury is persuaded as the evidence demonstrates that the ladder company maintained quality control measures that exceeded industry standards. The defendant won in

the court of perception. Apply the example to the truss and component industry. Generally speaking, our industry produces a finely manufactured and designed product. If problems occur, they usually result from improper handling, installation or bracing. Poor jobsite construction is almost always the cause of any problem. As such, if a truss manufacturer is blamed for some accident, a well-qualified and experienced expert can usually demonstrate the real reason or reasons causing the accident. However, too often a jury will hold it against the truss manufacturer, who opens itself up to criticism, if an adequate quality control process is not in place. Implementation and utilization of the quality control program can easily overcome such unfair criticism.

In any manufacturing industry, which includes the truss and component industry, any company that has not implemented quality control policies is not only gambling that no lawsuit will result from a defective product but they are also ignoring valuable resources that could add value to their business.

## RECOMMENDATIONS

**Review.** Every step of the manufacturing process must be evaluated to determine areas in need of improvement.

**Implement.** Tailor the quality management programs to the truss and component industry to ensure that your manufactured products are safe for all possible uses and all potential misuses.

**Ensure quality.** Quality and safety may be lost if programs are not implemented in all aspects of the manufacturing process.

**Make quality a top priority.** Let managers and other workers know the seriousness of the quality control measures. This can be done by upper management focusing on the importance of quality and making it a top priority.

**Think preventatively.** Sending out less-than-superior products may actually be more time consuming and costly than sending out the highest possible quality product.

**Record the quality management process.** Maintain records and schedules of quality reviews and what has been done each day to ensure the quality of the product. Implementing quality control standards without recording them is almost the same as not implementing any quality standards at all. The foundation of *WTCA QC* is a record-keeping computer database for this reason. At the same time, undertake the necessary remedial and corrective action.

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