

Protecting Good Samaritans

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In April, the House of Representatives introduced legislation supported by NSPE that would protect engineers and others from liability when volunteering their services after natural or man-made disasters.

When a disaster occurs, experts from several sectors of society are mobilized to respond to the crisis. Like police, firefighters, emergency medical personnel, and other first responders, professional engineers have made valuable contributions to emergency response efforts. In fact, the Federal Emergency Management Agency requires its rescue teams to employ at least one professional engineer.

Unfortunately, property and lives are sometimes lost or damaged during a disaster and the ensuing emergency response effort. First responders are protected by laws that shield them from exposure to liability when they perform the functions of a rescue operation in good faith. Professional engineers, however, often are not immune from liability for personal injury or death and property damage that arise from negligent acts committed while performing lifesaving work. Currently, only 24 states have Good Samaritan laws that grant immunity to engineers who provide emergency services during a disaster, while all 50 states and the federal government have enacted laws protecting other first responders.

Last year, the Alabama Society of Professional Engineers and other engineering groups successfully lobbied for the enactment of a Good Samaritan law following Hurricane Katrina. Under Alabama's law, PEs as well as licensed architects, land surveyors, contractors, subcontractors, and those working under their direct supervision, are immune from civil damages if they follow the standard of care. Immunity lasts up to 30 days after the emergency is declared and applies to volunteers who provide their services through emergency response organizations at the local, state, or federal level.

The House bill, the Good Samaritan Protection for Construction, Architectural, and Engineering Volunteers Act (H.R. 2067), has been referred to the House Judiciary Committee. The bill would protect engineering entities, among others, from liability when "providing emergency ... engineering assistance, on a voluntary basis, in good faith, and without expectation of compensation, and the entity or an employee of such entity negligently causes harm...."

NSPE supports the adoption of Good Samaritan laws that provide immunity from liability for any personal injury, wrongful death, property damage, or other loss caused by a professional engineer's acts, errors, or omissions in the performance of voluntary engineering services. Such laws eliminate the liability deterrent that may discourage engineers from providing voluntary services, thereby promoting professional engineers' voluntary participation in emergency relief efforts. Good Samaritan laws covering engineers also allow states and localities to include voluntary engineering assistance in their disaster plans.

The bill places some constraints on the circumstances under which protection from liability would apply. Services must be provided "at the direction of a public official acting in an official capacity," and work must be performed "in response to or arising out of a declared federal, state, or local emergency or disaster, whether the assistance is provided before or after the formal declaration of emergency or disaster." These restrictions are included to protect volunteers from performing services in the belief that they are immune from liability, only to discover months or years later that they are liable for damage, injury, or death. The bill would not protect engineers from liability for willful misconduct or gross negligence. Significantly, the bill, if enacted, would preempt any state statute that provides a lesser amount of protection from liability.

For more information on this and other important legislation, visit <http://capwiz.com/nspe>.

PE Disaster-Response Registry

NSPE is proposing to offer a nationwide registry of professional engineers, categorized by engineering discipline, for use by first responders to natural or man-made disasters.

In the Golden Hour after disasters, first responders make every effort to save and preserve life, and engineering expertise is often needed. Structural engineers evaluate and stabilize structures, and mechanical engineers are sometimes needed to release victims. Because rescues are so varied and unpredictable, incident commanders at the local, state, and federal response levels benefit from having the widest possible immediate access to engineering services.

The registrants will be available for rescue, recovery, reconstruction, and remediation services.

Specifically, NSPE is seeking professional engineers who have performed engineering tasks during at least one of the following:

- A FEMA rescue or response effort;
- A state FEMA rescue or response effort;
- A local response effort to a natural or man-made disaster, including but not limited to first responder rescue efforts and structural assessments;
- A disaster response training session;
- A post-disaster response effort to mitigate environmental effects;
- A post-disaster response effort to evaluate structural aspects of buildings or infrastructure; and
- A post-disaster response effort to re-establish electricity, water treatment, telecommunications, and other services.