



NERCA NEWS

NORTH / EAST ROOFING CONTRACTORS ASSOCIATION INC.

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August 2019

The Dog Days of Summer

Roofing contractors need to be mindful of the heat and its impact on employees during this time of year. NERCA takes seriously the safety threat posed by excessive heat. We've identified some resources available to employers trying to manage their employees in the hot weather.

1. OSHA's website has an [occupational heat exposure section](#) containing information on heat-related illness, prevention, and training.
2. CALOSHA has developed materials to guide employers in how to deliver [heat stress training](#) to their employees. Within the document are three 15-minute talks to warn employees about the dangers, signs, and symptoms of heat-related illnesses.
3. NIOSH has developed a [heat safety app](#) which can be downloaded by workers and supervisors to calculate the heat index at a particular worksite and identify the risk level for roofers.

Register for NRLRC 40th Seminar in NYC September 18-21



Make plans now to attend NRLRC's 40th Anniversary Seminar, Sept. 18-21, at the New York Hilton

Midtown. This extraordinary three-day learning experience will provide you with 13+ hours of in-depth legal, contractual, technical and business information you can't find anywhere else.

And when you register by Aug. 25, you will save \$100 on your registration fees and return home with 5-10 new ideas you can implement immediately. Guaranteed.

[REGISTER BY AUGUST 25th!](#)

****REGISTER NOW****

NEREF Fall Golf Outing September 25th, 2019

**Join us at Red Tail Golf Club on
September 25th to benefit the North
East Roofing Educational Foundation.**

NEREF North East Roofing
Educational Foundation

dedicated to the memory of Robert W. Therrien Sr.

**Where: Red Tail Golf Club
15 Bulge Road
Devens, MA 01434**

**Why: To benefit the North East
Roofing Educational
Foundation (NEREF)**

How: [REGISTER HERE](#)

SAVE THE DATE: NERCA's 94th ANNUAL CONVENTION & TRADE SHOW

**Tuesday, March 17th, 2020 –
Thursday, March 19th, 2020**

**Hard Rock Hotel & Casino
Atlantic City, NJ**

**Join us in this amazing new venue for
educational seminars, product demonstrations,
a 2-day silent auction, and much more!**

Pay Now or Pay Later: The Cost of Safety in Roofing



Recently, there have been several high-profile accidents involving roofing projects and roofing contractors. This includes a woman struck by a falling metal rail in Boston's North End and the prosecution of a Maine contractor for the death of one of his roofers. These incidents highlight the danger both known and unknown involved in roofing and the legal and financial consequences of not taking safety seriously.

According to the [National Safety Council](#), the cost of work injuries per worker in 2017 was \$1,100. The cost per injury requiring medical attention was \$39,000, while the **cost of a fatality was at least \$1,150,000**. Now add in the potential expense of fines from OSHA and the focus on roofing contractors and fall hazards and you are looking at some serious penalties should an employer be found negligent in the incident. As of January 2019, the maximum penalty amount for a willful or repeat violation was set at \$132,598 per violation of which there are typically multiple violations found during an inspection or accident review.

However, given how far the industry has come in terms of safety, the chances of experiencing a serious accident or injury on a jobsite are lower than ever, so it can be difficult for employers to truly understand the cost of a workplace injury. [OSHA's Safety Pays program](#) uses a company's profit margin, the average costs of an injury or illness and an indirect cost multiplier to project the amount of sales your company would need to achieve to cover the costs of an injury. This establishes the cost of inaction.

Employers can also utilize the [CPWR's online ROI Calculator](#). This tool uses your own cost data, including materials and labor, to calculate the potential ROI from adopting a safer tool, material or work practice. Using this tool, employers are likely to see that the decrease in productivity of using a particular tool or practice is outweighed by the savings experienced in the cost of accidents. For example, one of the templates is based on a study from 2008 which found that while the use of a contact nail gun was more productive than a sequential nail gun, the marginal productivity gains were far exceeded by half as much injury costs.

These tools are a fun way to simulate the cost and return on investment of a serious safety program, but contractors are more likely to listen to their real-world peers than to believe these statistical black boxes. Every 3 years, [Dodge Data & Analytics](#) conducts surveys on safety practices in construction. Consistently the study results have shown that contractors believe there is a payoff for strong safety practices. [The last study from 2017 study found that:](#)

- 38% of contractors surveyed saw a positive impact on their budget from enhanced safety protections
- 73% saw a reduction in reportable injuries due to safety improvements

In addition, the study found that:

- 72% of contractors reported safety practices having a positive impact on their standing in the industry
- 70% report they believe safety practices had a positive impact on their ability to find new work
- 44% believe that their safety practices had a positive impact on staff retention

On top of the operational impact of improving safety, contractors understand that mitigating the possibility of an accident can save money on workers compensation costs. Insurance companies use your firm's experience modification rating (EMR) to establish the cost of a premium for covering workers compensation. A company with a good safety record and a lower EMR (below 1.0) will typically pay far less in premiums per year than one with a higher EMR. In addition, EMR is often used as a factor by general contractors and awarding authorities to exclude companies that are sacrificing safety in order to be the low bidder on projects.

Regardless of where your company stands on the safety spectrum, NERCA is available to help improve your safety practices. We offer a safety manual to all our members which can be customized for your company but offers a basic template for safety processes. In addition, NERCA has several safety consulting companies as associate members who offer safety training and can inspect jobsites to identify best practices.

3M Fall Protection Issues Stop Use & Recall Notice on DBI-SALA Twin-Leg Nano-Lok edge and Wrap Back Self-Retracting Lifelines



On July 25, 2019, 3M Fall Protection announced an immediate stop use and product recall of the 3M™ DBI-SALA® Twin-Leg Nano-Lok™ edge and the Twin-Leg Nano-Lok™ Wrap Back Self-Retracting Lifelines. 3M determined that in a fall and under certain conditions, the energy absorber of these devices may not properly deploy which could expose the worker to serious injury or death. There have been no reports of accidents or injuries associated with this issue, but these products must be removed from service immediately.

[For more information visit the NERCA website.](#)

Contractor Wins FAA Approval to Fly Drones Over Active Construction Sites

General contractor Hensel Phelps recently received approval from the FAA to fly over active construction sites. This marks the first such waiver granted to a company using parachute-equipped drones.

FAA regulations prohibits operators from flying unmanned aircraft over people without a waiver from the agency. However, by demonstrating the effectiveness of ParaZero's SafeAir Parachute System, Hensel Phelps was able to address the FAA's safety concerns. The FAA said it is the first time it has collaborated with the construction industry to develop a standard and said the ParaZero system can be used by other applicants. However, other companies still must provide testing data and a statement of compliance listed in ASTM3322-18.

New ANSI Standards for Aerial Lifts

ANSI standards released in December 2018 affect all owners, operators and supervisors of aerial lifts including: boom and scissor lifts. The new standards are designed to enhance safety and shift North American equipment standards closer to international standards.

Some of the changes include renaming Aerial Work Platforms (AWPs) so they are now called Mobile Elevating Work Platforms (MEWPs). Rather than being classified by the equipment type, machines are now broken up by Groups, then sub-divided into Types.

- Group A: MEWP moves vertically but within the tipping lines, such as a scissor lift.
- Group B: MEWP can move beyond the tipping lines (outriggers or wheels), such as a boom lift.
 - Type 1: The equipment can only be driven with the platform in its stowed position
 - Type 2: The equipment can be driven elevated but is controlled from the chassis
 - Type 3: The equipment can be driven elevated, controlled from the work platform.

In addition, the new standards place greater responsibility on the equipment user regardless of whether they are a large maintenance operation or a small business that rents a scissor lift, boom lift, etc.

ANSI Standard A92.22 requires all MEWP users to develop a risk assessment and site safety plan, which must be shared with everyone on the work site.

ANSI Standard A92.94 now requires training for occupants and supervisors of aerial equipment.

An Occupant is anyone in the MEWP other than the Operator. Under the new standards, Occupants must receive training on fall protection systems and what to do if the Operator can no longer operate the lift. Lastly, there must be someone on the ground who can act as the Operator in the event of an emergency.

A Supervisor is someone who directly supervises an MEWP operator. All Supervisors are now required to have aerial lift safety training. This requirement enables supervisors to understand what MEWP is appropriate for the job, the standards that apply to MEWPs, the hazards associated with MEWPs, and how to prevent accidents in MEWPs.

Employers, owners and operators must comply with all of the above requirements by December 10, 2019.

LEGISLATIVE CORNER

NATION:

Thomas DePace, COO of Advance Sound Company, a Farmingdale, N.Y.-based member of the National Electrical Contractors Association (NECA), testified to the House Small Business Committee Subcommittee on concerns facing contractors. “Within the federal construction industry, there are three key areas ripe for reform: the prompt payment of change orders, the lowering of federal retainage rates, and the requiring of bonding on Public-Private Partnerships,” DePace said. He spoke in support of the Small Business Payment for Performance Act (H.R. 2344), which has broad support from many construction industry organizations



CONNECTICUT:

The State Employees’ Retirement System recently revealed the pension is only 38% funded and that it lowered the assumed return from 8% to 6.9%. Now, Gov. Ned Lamont announced he’s struck a deal with state unions that provides budgetary relief by re-amortizing a portion of the liability over the next 15 years, resulting in savings of \$115 to \$121 million each year. The stipulation is that once the budget reserve fund equals 15% of the general fund, surplus funds would be used to pay down the pension’s unfunded liability. The governor’s plan, which still needs to be approved by the state legislature, would fully fund the retirement system by 2047.

MAINE:

Last week Gov. Janet Mills signed the Marijuana Legalization Act LD 719 into law after the issue was decided by voters in 2016. The new Office of Marijuana Policy (OMP) will now create rules for selling recreational marijuana. LD 719 clarifies who can sell, and how towns can opt-in to selling marijuana. The OMP will spend the next several months completing work on a marijuana track-and-trace system, licensing system, and a public relations campaign. The law takes effect in September, and following the effective date, OMP has 60 days to adopt the adult use rules. OMP must begin accepting adult use business applications within 30 days of final adoption.

MASSACHUSETTS:

H.1771, An Act Authorizing Barnstable to Grant an Easement to Vineyard Wind was signed into law by Gov. Charlie Baker on Wednesday, July 31, 2019. The bill, filed by State Representative Will Crocker (R-Centerville), allows for the Barnstable Town Council to grant an easement for a portion of Covell’s Beach in the village of Centerville that will allow for construction of the interconnection between Vineyard Wind and the New England power grid.

NEW HAMPSHIRE:

In late July, Gov. Chris Sununu vetoed eight bills and signed a business protection bill to limit out-of-state tax collections. Thus far, the Governor has vetoed 38 bills sent to him from the Democrat controlled State Legislature, which is a record!

NEW JERSEY:

On July 9, the Misclassification Task Force issued a report including 16 recommendations to combat worker misclassification. The Task Force, created by Gov. Murphy estimated that in 2018, over 12,000 workers were misclassified as independent contractors or simply paid “off the books.” Additionally, that over \$462 million in wages were unreported and more than \$13 million was lost in tax contributions to the state for unemployment, disability, and family leave insurance. Some of the 16 recommendations are public outreach, strengthening state contracts, interagency enforcement, criminal charges for intentional wrongdoing, and increasing fines and penalties for record-keeping violations.

NEW YORK:

Two state senators have released a report on code enforcement following a six-month investigation. There are several findings and more than 10 recommendations. State Senators James Skoufis, and Brian Kavanagh opened the investigation into code enforcement practices in New York. “There’s really been a systematic failure at all levels of government to adequately prioritize code enforcement in New York state, and we just have to do better,” Skoufis says. Skoufis cites difficulties in finding who should be held accountable for violations at properties owned by LLCs and recommends increasing the penalties for code violations

PENNSYLVANIA:

For decades Pennsylvania has operated without a robust anti-indemnification law for the construction industry. That has meant that subcontractors looking for work often have to sign a contract that agrees not to hold a project’s owner or general contractor responsible for any damage that occurs — even if it was their fault. Now there is [a bill](#) that would require parties to hold themselves responsible for the accidents and injuries they cause. According to the anti-indemnification bill, any contract that requires one party to hold the other harmless would be unenforceable.

RHODE ISLAND:

Recently a bill limiting the use of non-competition agreements against hourly and low-wage employees has been signed into law. The legislation makes such agreements unenforceable against non-salaried employees, employees who make less than 250 percent of the federal poverty level, children under 18 and both undergraduate and graduate students.

VERMONT:

Gov. Phil Scott signed a bill that would invest more than \$615 million in the state’s transportation system. The Vermont Agency of Transportation proposed a budget that does not rely on any tax increases while allocating \$373 million for highway infrastructure investments. The budget contains \$93 million for public transit including funding to extend Amtrak service to downtown Burlington.