



NERCA NEWS

NORTH / EAST ROOFING CONTRACTORS ASSOCIATION INC.
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September 2020

NERCA's Convention & Trade Show Date Change May 4-6, 2021

Out of an abundance of caution the NERCA Executive Committee and Board of Directors have worked with the Hard Rock in Atlantic City to push back the Convention and Trade Show further into 2021.

NERCA's staff and Board will continue to monitor ongoing developments with COVID-19 and the State of New Jersey to ensure that the rescheduled event will be as safe and successful as possible.

Please save the date!

NERCA Webinars

With summer winding down, NERCA is proud to be hosting webinars again. These trainings will provide relevant information for contractors as they review their own operations heading into the winter.



[October 22 - Advanced Safety and HR Policies for COVID-19](#)

Trent Cotney, and Labor & Employment Partner, Ben Briggs, will discuss safety guidelines, job-site protection plans, and implementation of new HR policies. The presenters will also discuss OSHA's enforcement in the workplace.

OSHA Begins Issuing COVID-19 Citations

OSHA has now started fining companies for employee outbreaks across the country, including New Jersey and the northeast. The recent COVID-19 citations rely on the Occupational Safety and Health Act's general duty clause:



Each employer shall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees.

It appears that most of the citations being issued are related to events from Spring 2020, but there is little information about them in the DOL press releases.

For roofing contractors, who are always a target for OSHA, this means that employers must know and understand the guidance that was issued regarding their work. For many workers, simply being outdoors offers them enough reassurance to go mask less. However, employers are responsible for enforcing any COVID-19 related work guidance including social distancing and mask wearing when necessary.

COVID-19 safety measures must be enforced just as you would if there were an employee not wearing fall protection or other personal protective equipment. Contractors should have updated employee handbooks and signage regarding the dangers of COVID-19. In addition, any workplace illnesses or transmission on site should be recorded in your company logs to be reported to OSHA.

Are Temperature Checks Just for Show?

As business and job sites reopen, many have elected to utilize temperature screenings as a precaution in addition to self-certification by individuals to verify that they have no known symptoms of COVID-19. Temperature screenings follow guidance created by the CDC before most experts understood how the novel coronavirus was transmitted.



However, the most current information provides a more complete picture of how COVID-19 spreads. The CDC now estimates that as much of 40% of those infected will be completely asymptomatic. This means that there will be no fever or any other way of recognizing the infection other than getting tested.

Furthermore, a study of hospitalized COVID-19 patients in the New England Journal of Medicine found that [only 44% of those individuals had a fever](#) when they were admitted. In addition, experts now agree that those who are infected are most contagious during the initial period of infection well before symptoms manifest themselves.

These three factors mean that the ongoing temperature checks are likely to catch only a small fraction of actual cases. Instead the CDC is now saying [these checks are an optional strategy](#) for employers to limit the spread at work and are [not even requiring them](#) for many international travelers.

Instead, the CDC now highly recommends doubling down on the self-certification process to maintain awareness among your employees. Given the wide extent of asymptomatic transmission, the CDC also requires social distancing or teleworking as much as possible and requiring facemasks to reduce spread of aerosol vapors.

Trade Hounds Seeks to Reshape Construction Jobs Market

Boston-based technology company, Trade Hounds, wants



TRADE HOUNDS

to be “the LinkedIn of the construction industry.” Their technology is part social media and part jobs board. The goal is that employers will pay to access their resumes and post job openings.

Already, the company claims to have over 150,000 users and is accepting employer applications for early access to post to the jobs board. They also are seeking brand ambassadors from the trades offering merchandise through partnerships with companies like Milwaukee Tool.

In June, Trade Hounds closed a round of seed funding having raised \$3.2 million from Corigin Ventures and Brick & Mortar Ventures which co-lead the financing. These venture capital firms also included participation from Suffolk Construction, CCS Construction Staffing, and other large firms. In all, Trade Hounds has raised almost \$5 million to build out their technology and operational staff.

PPP SBA LOAN FORGIVENESS UPDATE

The Payroll Protection Program (PPP) loaned small businesses billions of dollars during the pandemic. The loans would be forgiven if employers only maintained their pre-pandemic payroll. In little more than four months, PPP doled out \$525 billion in loans to 5.2 million borrowers, saving millions of jobs.

However, to date, none of the loans have been forgiven. Lenders that helped the government deliver the money are warning that the effort is running into new delays and complications that could leave employers on the hook with unanticipated debt. Banks say the process for converting the government-backed loans into grants has been frustrating because of a lack of communication from the Small Business Administration and Treasury Department, which have run the effort since March.

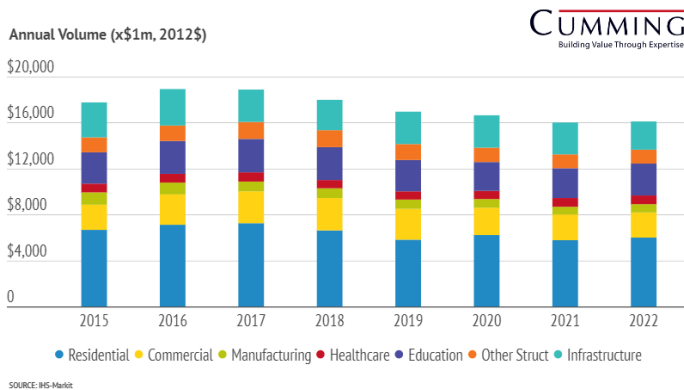
Banks, which loaned their own money with the expectation that it would be repaid by the government, have been submitting applications for loan forgiveness to the SBA since August 10. But the lenders say the agency has been silent on whether any of the applications will be accepted.

Slowdown Accelerated by Pandemic

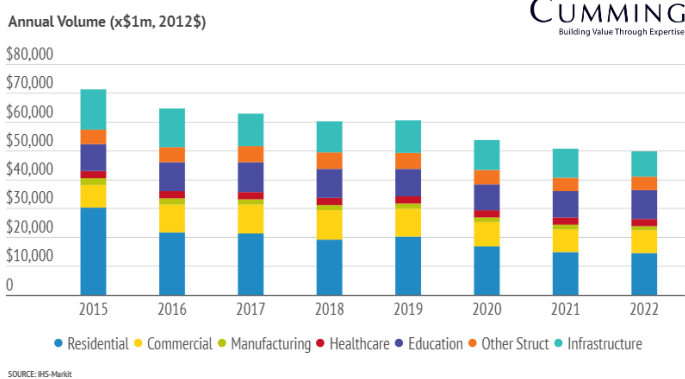
The dramatic economic contractions caused by COVID-19 are being blamed for upending a booming construction industry. However, studies of IHS Market Insights by Cumming Construction Corp revealed that the northeast construction market has been slowing for years and was only accelerated by the pandemic.

Over the last five years, Boston, New York City, and Philadelphia have an average decrease in year over year Total Construction Market Volume of -1%. This is despite rising employment and a positive annual index.

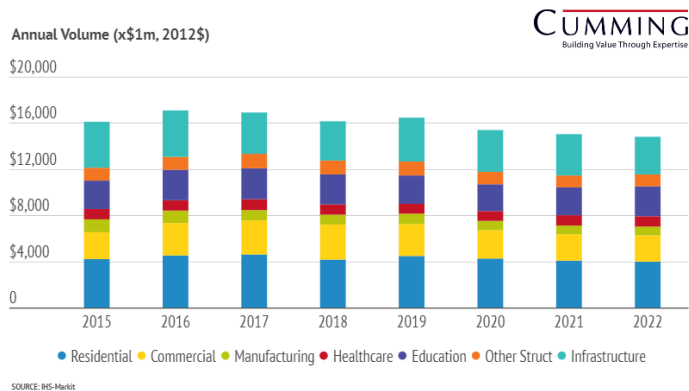
BOSTON



NEW YORK CITY



PHILADELPHIA



DOL Issues Draft Independent Contractor Rule

The Department of Labor (DOL) recently released a proposal that would clarify whether workers are independent contractors or employees under federal minimum wage and overtime law.

The proposed rule, which is expected to be published in the Federal Register by early next week, would create an "economic realities" test to determine independent contractor status under the Fair Labor Standards Act.

Specifically, the test created under the proposal would weigh whether workers are economically dependent on an employer or in business for themselves by analyzing how much control workers have over their job duties and their opportunities for profit or loss. If a worker's status is still unclear after reviewing those factors, the test then considers the skill required for the job, "the degree of permanence of the working relationship" and if the work is "part of an integrated unit of production."



The Obama administration clarified the rule in a 2015 guidance document, in an effort aimed at limiting misclassification of employees as independent contractors. However businesses argued that the Obama DOL's interpretation of the law would increase litigation against employers. The Trump administration withdrew the guidance in June 2017.

Senior administration officials indicated this September 24th that they plan to finalize the rule before the end of the year. But the timing of the rule would make it vulnerable to repeal under the Congressional Review Act if Democrats were to win the White House and take control of the Senate.

LEGISLATIVE CORNER

NATION: Total Cases – 7,332,861

Bills could pass both the House and Senate to enact a clean energy policy overhaul. The House is set to vote on [H.R. 4447](#), but there is criticism from progressives on the legislation. The Senate's energy reform package, [S. 2657](#), has been stalled for months with the Supreme Court confirmation likely to take center stage for months.



CONNECTICUT: Total Cases – 56,587

Governor Ned Lamont today called on the General Assembly to convene in special session to consider legislation among other things: authorizing school construction projects; updating environmental law on public notice; and permitting homeowners' associations to obtain loans through the Supplemental Collapsing Foundation Loan Program.

MAINE: Total Cases – 5,300

The Maine Public Utilities Commission has approved 17 renewable energy projects, representing the largest procurement of renewable energy in Maine's history. Officials say the projects totaling more than 500 megawatts of energy would reduce greenhouse gas emissions by approximately 500,000 tons per year while helping the state achieve its renewable energy portfolio goals of 80% renewable by 2030. The projects are expected to create more than 450 jobs during the construction phase and more than 30 jobs during each year of operation.

MASSACHUSETTS: Total Cases – 130,642

The House and Senate are at odds over much in their Economic Development bill including provisions on diversity inclusion which require MBE/WBE businesses and workers be considered in bids on public projects. The Senate passed an economic development bill last month with language that would require all state authorities to factor in race and gender when awarding bids for the disposition of real estate, air rights, and long-term leases. The House version calls for studying ways to diversify the participants in state construction projects, rather than mandating anything.

NEW HAMPSHIRE: Total Cases – 8,172

The House of Representatives failed to override Gov. Chris Sununu's veto of a bill that would have increased net metering limits. In March, the New Hampshire Senate had voted 17-7 to override the governor's veto of Senate Bill 159, legislation that would have increased the state net metering limit from 1 to 5 megawatts (MW). But on Sept. 16, the House failed to override the veto on a 207-130 vote. The Consumer Energy Alliance commissioned a report on solar incentives that found that a single 6,100-watt direct owned rooftop system in New Hampshire received \$23,254 in taxpayer and net metering incentives, or about \$3.81 in incentives per watt, representing 118 percent of the actual cost of the system. The extra costs are usually paid for by non-solar utility customers.

NEW JERSEY: Total Cases – 207,250

Gov. Phil Murphy signed legislation providing benefits to those who contract COVID-19 while on the job. Under the law ([A-3999/S-2380](#)), essential employees whose jobs require interaction with the public during the public health emergency will be eligible for worker's compensation if they contract COVID-19. The workmen's compensation benefit will be provided unless a "preponderance of evidence" indicates an essential worker was not exposed to COVID-19 on the job, lawmakers said. Otherwise, it will be presumed that the infection was work-related in order to ensure eligibility for these benefits.

NEW YORK: Total Cases – 489,864

Congressman Chris Jacobs (NY-27) announced the introduction of the Infrastructure Expansion Act (H.R. 8222) which would exempt federal contractors from the NY Scaffold Law. Currently, the Scaffold Law imposes absolute liability for gravity-related injuries on construction employers and property owners, forcing companies to purchase expensive liability insurance that drives up an overall project's cost. The Infrastructure Expansion Act imposes a comparative negligence liability standard, pre-empting the Scaffold Law on all projects receiving federal funding. Under Jacobs' legislation, gravity-related accidents would be investigated to determine blame in the cause of the injury, meaning businesses would no longer need to carry excessive insurance plans, and taxpayers would likely save money.

PENNSYLVANIA: Total Cases – 161,190

Gov. Tom Wolf this week vetoed a bill limiting Pennsylvania's efforts to join a regional climate pact. House Bill 2025, passed by the state's Republican-controlled legislature, would have prevented the state from joining the Regional Greenhouse Gas Initiative without approval of the General Assembly. The Environmental Quality Board recently voted in favor of a draft regulation allowing Pennsylvania to enter the initiative — a cap-and-trade program the Department of Environmental Protection argues will reduce carbon emissions, stimulate the economy and cut health care costs.

RHODE ISLAND: Total Cases – 24,181

In the Democratic Primary, which is often more competitive than the election, Senate President Dominick J. Ruggiero beat back a challenge in his district. However, progressives knocked off two other Senate leaders and scored victories.

VERMONT: Total Cases – 1,745

The House and Senate adjourned without scheduling a veto session. That means that if the governor vetoes anything it will be dead, and lawmakers have no opportunity to reverse it. S.119, a police reform measures is unlikely to be signed and the Scott administration has also expressed reservations about the scaled-down Act 250 bill.