

CRCA TODAY

FALL 2017

The Magazine
of Roofing and
Waterproofing
in Illinois
and Beyond

Silica Standard—
Roofing Contractor Compliance

Umbrella Coverage and Subs

Insurance Coverage—
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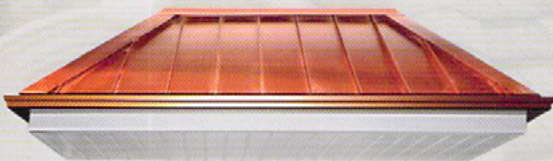
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Reprints: *CRCA Today* has extra Magazine reprints available to CRCA Members for a limited time, limited quantity, for free. Contact info@crca.org. Reprints are available from CRCA headquarters; 1-100- \$.95/issue; 101-500 - \$.90/issue; 501-1000 - \$.80/issue; 1000+ - \$.70/issue. All shipments FOB 4415 W. Harrison St., Suite 540, Hillside, IL 60162.

Online: Archived *CRCA Today* available at <http://www.crca.org>, Magazine.

On the Cover: Photo Courtesy of CRCA Contractor Member Firm, Peterson Roofing, Inc. Project is Scarsdale Condominiums in Arlington Heights, IL.

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CRCA Leadership—Moving Forward into 2018

By George Patterson

On Friday, December 1st, I will transition the Chicago Roofing Contractor Association's (CRCA) leadership reins over to incoming 2018 CRCA President, Troy Wormley, of W.B.R. Roofing. Troy's involvement in all aspects of CRCA over the last two years will benefit CRCA well as we move forward into 2018 and beyond.

Over the past three years as CRCA President and the nine years on the Board, I am proud of the many things we have accomplished as a board and as an association. Here are just a few:

- **Membership Growth**—

With CRCA's membership of over 340 Contractor and Associate firms, we have grown 12%, with a great emphasis in encouraging roof consultants and steep slope roofing contractors to our



CRCA Photo

association. Because these are company memberships, CRCA reaps the benefits of many new individuals to provide education, feedback, networking and information which helps the CRCA on many levels.

- **Legislative**—With continual growth of regulation, the roofing and waterproofing has seen the cost of doing business increase. CRCA has worked closely with many municipalities, the city of Chicago, the state of Illinois and National Code Bodies, to advocate for our industry in efforts to reduce or maintain these mandated requirements on energy code, crane and other legislative areas. CRCA has not lost sight of the goal of providing the best waterproofing and roofing installation, in the safest manner, for our customers and public.



CRCA Photo

- **Getting Involved**—In 2017, CRCA had over 125 committee and trustee members actively meeting to provide support, structure, leadership and legislative input to meet the goals that were set by the CRCA Board and committees. They have gathered almost 50 times in 2017 to plan events, provide input to legislation and code development, provide educational forums on industry specific and business topics and facilitation of other CRCA organizational goals.
- **Board Participation**—in 2016, women participated on the CRCA's Board for the first time and in 2017, an additional Associate board member was added. Also, the average age of a CRCA's board member has lowered, as the leadership is strengthened by some of the new programming and mentoring.



CRCA Photo

- Develop New Leadership**—In its third year as a CRCA committee, the Emerging Leaders continue to provide activities and events that foster growth of a new generation of CRCA leadership. The Chicagoland Women in Roofing (CWIR), in its inaugural year, held four events to help fulfill the mission of education and encouraging more women to participate in the roofing and waterproofing industry.



CRCA Photo

- Participate**—CRCA had over 3,700 attendees participate in five membership meetings in 2017, eight Emerging Leader and CWIR events, an industry day golf outing, an industry leading trade show and seminars, increasing industry-wide education and networking for all who attended.

Back in 2008, when contemplating running for the CRCA board, I received advice from Jim Brosseau, past CRCA President, who said that the experience would be very rewarding for me with the ability to have a say in what was going on in the roofing and waterproofing industry. He also felt that I would be an asset to the industry. I've volunteered a great deal of my time to CRCA but have received back so much more. I've learned much, listening to the CRCA Past Presidents, who came before me and those volunteers who served and participated.

The past nine years have gone fast and I am looking forward to continue serving in my role as CRCA Past President until 2019. I encourage everybody to get involved in the Roofing and Waterproofing Industry, as leaders and as active participants. When we listen and learn from each other and work together, it raises the bar to our industry today and to follow in the future!

Thank you for allowing me to serve as your CRCA President the last three years. It has been an honor to lead this tremendous organization. 🏠



George Patterson, 2015–2017 CRCA President
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OSHA Proposes Yet Another Delay on the Crane Certification Requirement

By Frank J. Marino, CSP



Frank J. Marino, CSP

Back in 2010, OSHA made a huge impact on health and safety in the construction industry by overhauling the crane & derrick standard. The goal of this new standard, as with all other OSHA standards, is to reduce workplace accidents and fatalities. As one prominent safety professional explained

in April 2011's *Construction Equipment* that the new crane standard is essentially an "extensive overhaul of previous regulations, they are also, in many ways, common sense solutions to existing problems."

Now here we are, seven years later, and the regulation in its entirety is still not fully enforceable.

On Tuesday, June 20, 2017, OSHA presented a proposal to extend the enforcement date of its crane operator certification requirement in the Cranes and Derricks In Construction standard until November 10, 2018. At the same meeting, OSHA also proposed extending the existing employer duty to ensure crane operators are trained and competent to safely operate equipment to November 10, 2018 (*Construction Equipment*, 2017).


This request makes it the third since the standard, containing the certification requirement, was implemented by OSHA in 2010. At that time, a three-year extension was granted, after which another three-year extension brought the deadline to November 2017.

This request is not without its criticism. James Headley of the Crane Institute of America Certification commented, "We have a perfectly good operator certification requirement in place and have had since 2010. The bottom line is these extensions have resulted in more accidents resulting in many cases injuries, and even deaths, because certification causes operators

to receive training and trained operators have fewer accidents. This doesn't include the confusion caused to the industry, companies and employees." (*Construction Equipment*, 2017).

Jose Lopez of the Florida Crane Inspections, LLC strongly disagrees OSHA should be given another year's extension, citing that in his opinion "individuals and companies who have not entered into certification by now (seven years) are the type of persons that will not get certified even if they are given 20 years, because that is the way they are, unsafe and operate by the seat of their pants." (*Construction Equipment*, 2017).

Not all the feedback has been negative. Graham Brent, CEO of the National Commission for the Certification of Crane Operators offered support of OSHA's extension request 'reluctantly' on the condition that the Final Rule would "clarify the role of certification in employers' efforts to ensure their employees are qualified, and remove the requirement that crane operators be certified by capacity as well as by type of crane." (*Construction Equipment*, 2017).

One thing that all involved seem to agree on is that this rule will eventually be enforced. Until then, the best we can do as contractors is to continue to use best practices as it relates to crane operations. This includes putting operators through a certification process. We don't need an OSHA rule to tell us that having a trained and certified operator is a good idea. 

References:

<https://www.constructionequipment.com/osha-propose-further-delay-crane-rule>
<http://www.fdrsafety.com/wp-content/uploads/FDRSafety-CraneStandard.pdf>

Frank J. Marino is a partner at Safety Check, Inc. He can be reached at fmarino@safetycheckinc.com. Safety Check has been serving CRCA Members as CRCA's Safety Consultant for over fifteen years.

So the GC Wants Our Umbrella Coverage to Do What? . . .

By Robert Glonek, CRIS, CLCS



Robert Glonek, CRIS, CLCS

Over the past years, insurance requirements from general contractors (GC)* have required their subcontracting contractors to fulfill an ever-lengthening list of insurance requirements. Not only are these demands forced on you in order to work on a given project, but you must follow through to get paid.

While it is now second nature to contact your insurance broker and ask that a certificate of insurance be issued, fulfilling their requests, it is getting more complicated.

The typical insurance requirements listed by the GC may include limits of insurance for your liability, auto, worker's compensation, umbrella, inland marine, professional errors and omissions and others as needed. In addition to limit disputes, it gets even more complicated. Terms like "waiver of subrogation," "additional insured," "primary and non-contributory" — it goes on and on. To stir the pot a little further, some of the above may be required on some or all policies.

A recent trend has been the request for the umbrella to "follow form" and name the owner, architects, GC's, their relatives and on and on as "additional insureds." Some insurance providers are responding with a range of responses from "sure" to a simple "no." The question at hand is **what are they looking for and why are they requesting this?**

To back up slightly, the umbrella coverage sits on top of and extends coverage to the underlying liability policies. The limit extends the general liability, auto and employers liability which is part of the worker's compensation policy. For example, if there was a large bodily injury claim for \$2MM, the standard general liability policy of \$1MM per occurrence would respond up to that limit. In this case, since an umbrella policy was in place, it will cover the next \$1MM of the claim.

What does the term "primary and non-contributory" mean? The thought is that if you are doing a large job and you cause a claim, your insurance will pay first or primary. This request is common on the general liability policy but not standard on most umbrellas. By definition, an umbrella policy is not primary. It sits on top of the other policies and responds only after those limits are exhausted. The non-contributory portion says that your insurance will not seek contribution from the GC's insurance carrier. This ultimately helps protect the GC's insurance premiums with little to no benefit to the contractor.

Ok—so why is the property owner now asking that my umbrella policy be primary and non-contributory? The attorney who first came up this idea has certainly caused more confusion than good. Undoubtedly, the purpose was an attempt to make the downstream contractor eat all of a claim, regardless of fault. "Through our contract, you did add us as 'primary and non-contributory,'" the call from the owner states firmly after a claim.

In Illinois, previous court cases have stated that the standard approach as to who pays on a large claim is answered through **horizontal exhaustion**. For example, on a large apartment complex claim, in which multiple contractors are all simultaneously working for the owner acting as the GC, a huge claim occurs of \$10MM. Four subcontractors and the owner's insurance are all called in for contribution on the claim. The owner hoped that his insurance would not be touched because he had primary non-contributory on his indemnification agreements with all the subs. He requests that all subs pay with their general liability policy limits, along with their umbrellas that they each carry and his not respond at all. Illinois and most states' law say, "not so fast!" All underlying general liability policies will deplete their limits horizontally, prior to any umbrella being affected.

To expand on the previous thoughts, in your contract or insurance indemnification agreement, you or your agent notice that the requirement states that "excess/umbrella policy follow form" or some close derivative of

that. It is often misunderstood and a mistaken thought that umbrella policies automatically “follow form” and immediately respond to when the underlying general liability policy limits are exhausted and therefore follow the “primary and non-contributory” issue. Even umbrella policies that follow form, do not follow the other insurance condition of the underlying policies. And the spiral continues. Have your broker or agent clarify if your umbrella is follow form, if you are being required to provide it. Note that breach of contract suits are not covered under your policy and can be expensive to defend.

So now what? The GCs’ insurance clerk said we must provide the “primary non-contributory wording” on your umbrella and note it on our certificate or we don’t get the work. What do you do?

First contact your insurance broker and ask if you have the coverage currently on your policy and if not, what will it take to get the wording added by endorsement. If not included, some carriers are offering to allow the endorsement on either a per additional insured name, per job, or on a blanket basis which is preferred if allowed and the cost makes sense. For those carriers that do not offer this policy language as standard policy verbiage, it often can be added for an additional cost


of up to \$1,000 per additional insured or as high as \$10,000 on a blanket basis.

Conclusion

According to the International Risk Management Institute (IRMI) seminar on this topic, the GC is **not afforded any additional coverage by requiring the follow form, primary non-contributory language on the umbrella policy.**

The primary, non-contributory language should never have started in the first place. Now that it is here, the best thing to do is *understand it*, make sure *your broker understands it* and that you are *not signing contracts that place you* in line for a breach of contract suit.

As large court cases are filed, and Illinois courts decide on how they read previous case law and how they will interpret these wording changes, time will tell when the next major change in direction occurs. Stay posted!

*For the purposes of this article’s discussion, GC’s will also include larger property owners, etc. 

Bob Glonek is a Construction Risk Specialist (CRIS) and a Commercial Lines Coverage Specialist (CLCS) for CRCA Associate Member Connor & Gallagher. He specializes in insuring real estate, construction, private equity/ M&A due diligence, distributors and manufacturing exposures. He can be reached at bglonek@gocgo.com or (630) 810-9100, ext. 156.

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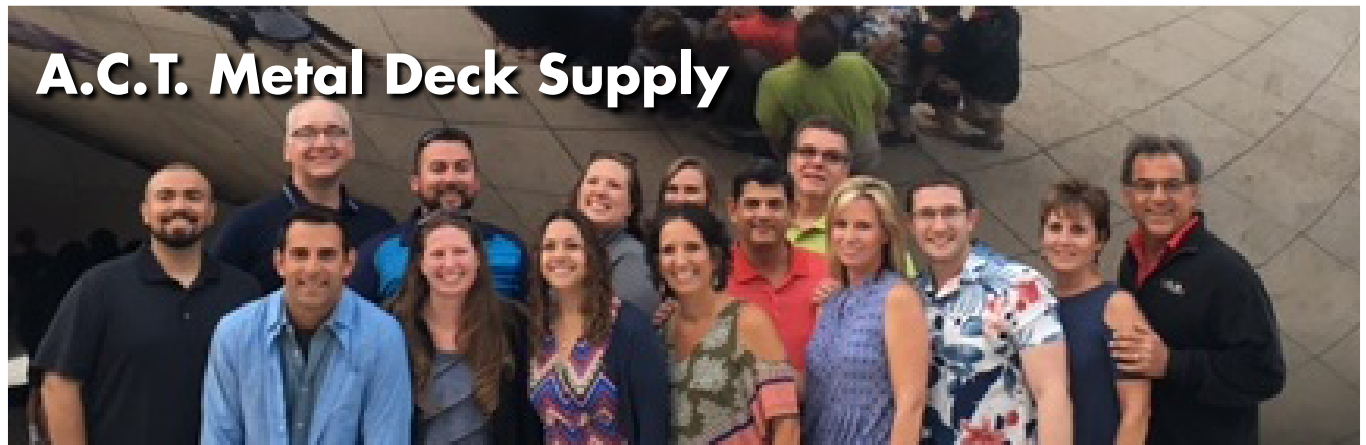






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Roof Talk—CRCA Member Spotlight



A.C.T. Metal Deck Supply

Editor's Note: Each issue of CRCA Today will feature individual CRCA Members and the products and services they offer. Watch for more information in upcoming issues!

Company: A.C.T. Metal Deck Supply

Location: Aurora, IL—Headquarters

Business Founded: 1970

Number of Employees: 17

Joined CRCA: 1992

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Where do you see your business in 5-10 years?

With the support of our customers and staff, we hope to be right here continuing to fulfill the needs of metal deck users with integrity and reliability while promoting the personal well-being of our employees and their families.



Broadview Baptist Church, ACT Photo

What is the best business memory to date?

Selling the roof deck for the Broadview Missionary Baptist Church and working with the engineer to figure out how to design very rigid 3" metal roof deck to fit over a dome. We smile every time we drive by!

How did you learn about the CRCA?

We were introduced to the CRCA by Pro Fastening Systems, Inc.

If you attend CRCA events, can you describe a benefit of attendance?

The benefits of attending CRCA events for us are the face to face interaction we get with both customers and other vendors. The events have been an excellent resource for our employees to get exposure to the roofing industry.

What value does CRCA membership bring to you?

As an advocate for the roofing industry, the CRCA keeps us connected not only to the industry but provides friendships, a high level of business ethics and the exchange of educational information that is useful to us as members. The events offered by the CRCA—trade show, membership meetings, golf outing, Emerging Leaders—are an invaluable way for every employee in our company to be involved in the association.

What advice would you give a new CRCA member?

Get involved—Come to the trade show—Go to an event

Is there anything additional that you would like to add that was not asked/mentioned?

We still cherish our "Supplier of the Year" award. We are grateful to the CRCA and its members for the support over the last 26 years. It has meant a lot to our company.

OSHA Silica Standard a Reality— Does It Really Affect Me as a Roofer?

By CRCA Staff



The answer is “YES”! If you or your workers are on any jobsite where silica dust is being created by cutting, grinding or blasting such materials as concrete, stone, brick and pavers or even grinding mortar joints when installing flashing, your workers are affected. Roofers can also be exposed to this dust when using blowers or dry sweeping concrete and clay tile roofs. Your workers are not alone. Per OSHA, over 2 million construction workers are exposed to silica at over 600,000 workplaces. Read further about WHO the Rule for Crystalline Silica Exposure applies to, WHAT the compliance requirements are and HOW to comply.

A Bit of Background

With a few legal starts and stops, OSHA began enforcing the Respirable Crystalline Silica Construction Standard, 29 CFR 1926.1153 on September 23, 2017. They issued the final rule in March of 2016, after many decades of debate whether to approve these tougher requirements on how much silica dust construction workers can be exposed to without triggering silica-related diseases such as silicosis, lung cancer, and kidney disease to name a few. While the compliance deadline was set for June 23, 2017, the Trump administration extended it three more months to this September. Experts predict that over 600 lives and over 900 new cases of silicosis can be prevented each year with the new compliance, equaling over \$7.7 billion annually in medical savings.

Who does it apply to?

The first step is to determine if your workers are operating in an environment where visible silica dust is present. If yes, the next step is to determine if the exposure could be at an action level at or above

25 µg/m³ (micrograms of silica per cubic meter of air), averaged over an eight-hour day.

Once determined that the standard applies to the workers, the employer has two options for compliance: A) **Use the control methods laid out in OSHA’s Table 1**—*Specified Exposure Control Methods When Working With Materials Containing Crystalline Silica* or B) **Measure workers’ exposure** to silica and decide which dust controls work best to limit the exposure. To simplify, once silica dust is identified in the workplace, the employer can utilize preventative measures outlined in Table 1 or follow more stringent practices including air monitoring, protection if exposure is over a specified limit, using dust controls above a specific limit and provide authorized respirators to workers when dust controls cannot limit exposure to the new permissible exposure limit (PEL.)

What Does Table 1 Include?

OSHA has identified equipment typically used in construction that could generate silica dust and have provided work practice dust control methods and the respiratory requirements needed to comply. The equipment identified is:

- Stationary masonry saws
- Handheld power saws
- Walk-behind saws
- Drivable saws
- Rig-mounted core saws or drills
- Handheld and stand-mounted drills (including impact and rotary hammer drills)
- Drilling rigs (including dowel and vehicle-mounted)
- Jackhammers and handheld powered chipping tools
- Handheld grinders
- Walk-behind milling machines and floor grinders
- Drivable milling machines
- Crushing machines
- Heavy equipment and utility vehicles when used to abrade or fracture silica containing materials

See below for specific exposure control methods for working with Handheld Power Saws. In this example, if a worker uses the saw outdoors for four hours or less a day, no respirator is needed. If more than four hours a day, respirator use with an assigned protection factor (APF) of at least 10 is needed. In this case, a NIOSH-

certified filtering facepiece respirator, that covers the nose and mouth, could be used. If a worker needs to use the respirator on 30 or more days a year, they would need to be offered a medical exam, testing for silica related issues.

| Equipment/ Task | Engineering and Work Practices Control Methods | Required Respiratory Protection and Minimum Assigned Protection Factor (APF) < or = to 4 hrs/ shift | Required Respiratory Protection and Minimum Assigned Protection Factor (APF) > 4 hrs/shift |
|--|--|---|--|
| (ii) Handheld power saws (any blade diameter) | Use saw equipped with integrated water delivery system that continuously feeds water to the blade. Operate and maintain tool in accordance with manufacturer’s instructions to minimize dust emissions. <ul style="list-style-type: none"> • When used outdoors. • When used indoors or in an enclosed area. | None APF 10 | APF 10 APF 10 |

*For more information on Table 1, visit <https://www.osha.gov/silica/SilicaConstructionRegText.pdf>

How to Comply

All construction employers covered by the standard are required to:

1. Establish and Implement a Written Silica Exposure Control Plan

- Describe all tasks performed that involve the exposure
- Describe the engineering controls, work practices and respiratory protection used to limit employee exposure for each task (i.e. Use XYZ Handheld saw with approved dust collection system with a filter at least a 99% efficiency and a filter cleaning mechanism.)
- Describe housekeeping measures used to limit employee exposure (i.e. Do not use dry sweeping or compressed air for removing dust and debris containing silica from work surfaces. Use an approved vacuum device according to manufacturer’s instructions and empty as needed to prevent overfilling. Dispose of vacuumed materials in an appropriately sealed container.)
- Describe procedures to restrict access to work areas, to minimize the number of employees exposed. (i.e. Schedule the work so that only employees engaged in the task are in the area if possible.)

- Review and evaluate the effectiveness of the written plan at least annually
- Make the plan readily available to each employee as needed

2. Designate a Competent Person to implement.

This would be your employee who can identify existing or potential respirable crystalline silica hazards and is authorized to promptly eliminate or minimize the hazard. They also must have the knowledge to implement the written exposure plan. The standard does not require specific training for the competent person but the employer is responsible for determining what training is necessary. A recommendation is to have two employees fill this role; one at the job site and one in the office to perform the recordkeeping component.

3. Change Practices to maximize control.

4. Offer Medical Exams.

Employers must offer medical exams, including chest x-ray and lung function tests, every three years to workers who are required by the standard to wear a respirator for 30 days or more per year.

- 5. Train Workers.** Employees must be trained at the time assigned to a position that includes potential exposure to silica dust with additional training as needed. The employer must make a copy of the respirable crystalline silica standard available at no cost for each employee. (Visit OSHA.gov for silica standard information in Spanish.) Be sure your employees are aware of a silica dust threat on jobsites, even when other trades are creating.
- 6. Keep Records** of exposure and related medical treatment.


Good Faith Compliance

During the first 30 days of enforcement, OSHA will carefully evaluate good faith efforts by employers to meet the new standard. If, upon inspection, OSHA feels that the employer is not making any efforts to comply, collection of exposure air monitoring will be done as well as possibly cite these employers. Those who do not comply face up to a maximum fine of \$12,675 PER DAY and \$126,749 for a repeat or willful violation. Roofing Contractors are also seeing more General Contractor involvement in regards to making sure all the subcontractors on a work site comply with the standard.

Where to Learn More

Your workers' compensation insurance carrier is a good resource. They may have loss-control staff that are safety trained and can help you review your best practices to

be sure OSHA compliance is being met for the silica standard. Another resource is your safety consultant, who can help compliance as well.

Visit the resources below and/or attend CRCA's 35th Annual Trade Show & Seminars for more information on the Silica Standard's implementation and other roofing safety practices. This two-day event will be held January 18-19, 2018 at Drury Lane's Conference Center, Oakbrook Terrace, IL. For more information, visit http://www.crca.org/crca_events/index.htm. 

Resources:

OSHA's Small Entity Compliance Guide for the Respirable Crystalline Silica Standard for Construction <https://www.osha.gov/Publications/OSHA3902.pdf>



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Road Worrier: Exposures to Workers Compensation and Auto Hazards for Traveling Construction Employees

By Fred A. LeSage, CRIS



Fred A. LeSage, CRIS

On the Road

Travel is a part of many jobs, but you might not think it's part of a construction worker's career. For many trades in specific construction sectors, however, travel is a regular part of the job. Some examples include trades involved in construction of transportation projects like pipelines, highways

and railroads, where crews travel along the route of construction as the project progresses. Employees of power line erectors have similar exposures to travel. Other cases involve specialty construction like water tower erection, tunneling and power boiler erection and maintenance. In these situations, specially trained workers with specific experience in the field travel to and remain at the location of the work until the project completes. Then they move on to the next similar project.

For the purposes of this discussion, we'll define travelling employees as those who are residing in temporary accommodations for the duration of the work week. Typically, this means that they are housed in hotels, rental apartments or portable housing (trailers, motor homes, etc.).

Off the Clock or On the Job

Traveling construction workers are exposed to the same construction site hazards as their non-traveling counterparts. But from a Workers Compensation perspective, there are other hazards to consider. In most jurisdictions, an employee who has travelled for the purposes of work and is not commuting daily between his residence and a job site is covered by Workers Compensation insurance 24 hours a day. That means that even if the employee is injured while away from the job and off the clock, the injury can (and most likely will) result in a Workers Compensation claim.

Under most state laws governing Workers Compensation, it is assumed that, were it not for the need to travel to a remote location for his job, the employee would not have been in the place where his injury occurred and would therefore not have been injured. Case law has resulted in further refinement and expansion of when Workers Compensation benefits apply. Here are a few examples:

- A project engineer was on a six-week assignment to a project in a Gulf Coast city. His employer provided him with an apartment for the time he was on the assignment. One evening when he returned from the job site, the engineer tripped over a garbage can in the apartment and fell, breaking his wrist. Treatment for the injury was addressed through Workers Compensation insurance. Were it not for the job assignment, the law assumes the engineer would not have been in the apartment, tripped and been injured so *Workers Compensation applies*.
- A project manager, on a two-week assignment at a site in Hawaii, rented a bicycle to take a trail ride on his weekend off between work weeks. While on his bike ride, he fell over the handlebars, severely injuring his shoulder. Medical care for the injury was covered by Workers Compensation insurance. The state where his company was based and where he was employed ruled that the *employer should reasonably expect that an employee would engage in recreational activities while away from work on remote assignment*. That expectation should be considered when assigning work away from home and so *Workers Compensation coverage applied*.
- Laborers working on a long-term construction project that was scheduled for two shifts per day, engaged in a practice the military commonly calls "hot bunking." By sharing a hotel room, the day shift crew slept in beds occupied by the night shift crew while they were away at work and vice versa.

Saving hotel expenses allowed the laborers to pocket a share of their per diem travel allowance. Unfortunately, a bed bug infestation at the hotel necessitated medical treatment for laborers on both shifts. *Once again, Workers Compensation coverage applied.*

These are difficult exposures to manage, if they can be managed at all. It is virtually impossible to impose management controls on employee activities during their off-work hours. Employers should consider the risks associated with using traveling employees to staff their jobs. In some cases, hiring local workers for the duration of the work may help reduce this exposure. Certainly, hiring short term employee for a project comes with its own risks, but in some cases, striking a balance with a mix of traveling workers and local hires may be desirable as a means to limit exposures.

Cost Driver

Traveling workers can also create additional Auto exposures for contractors. In many cases, the company truck may be the only transportation available to traveling employees. If they're going to drive to dinner, the grocery store, the laundromat or even the local bar or tavern, that truck is likely to be their chosen mode of transportation. The additional miles driven for these errands create an Auto exposure on their own. But throw in the driver having a few drinks at dinner or at the bar after work and another layer of risk has been added to the mix. Here is an example:

- A telecommunications contractor line crew was traveling for work in California. After work, the crew used the company truck to drive to a local bar. When the crew decided to end their evening, they returned to their truck. On the way out of the parking lot, the truck struck a pedestrian. Medical treatment for the pedestrian's injuries was of course covered under Auto Liability insurance. But the case could grow. The injured pedestrian could seek additional damages for pain and suffering under the concept of *Negligent Entrustment*. He could accuse the employer of negligently entrusting the use of a company vehicle to the employee driver who struck him. Such cases can drag on for years and incur substantial legal costs, even if the employer is not at fault. If fault is found, particularly in cases of intoxicated drivers, damages could be awarded that are many times greater than the actual cost of medical treatment. Punitive damages can also be awarded in negligent entrustment cases and generally they are not covered by insurance.

Some Auto risks associated with traveling employees can be managed. While exposures associated with work activities cannot be entirely avoided, they can be rendered no more severe than if the work was located near the employer's headquarters.

If the company puts in place a policy that prohibits use of company vehicles for private errands (driving to dinner, the laundromat, the bar, etc.), some risk can be removed. Of course, traveling employees may gamble that violating the policy won't get them in trouble. (They might be right if no accident occurs). It is probably not reasonable to expect workers to be without some form of transportation on their off hours, so it would be wise for the employer to provide an alternative. For example, some employers provide reimbursement for any taxi service used by their traveling employees. Other options include arranging for regular off-hours transportation with local car or van service companies.

Passport, Please!

And this is just considering travel for workers in the United States. Managing risks associated with international travel can complicate matters. While geographically close, the workers compensation systems in the US and in Canada are very different and complex in their own unique ways. Canadian workers traveling to the US to work on a project may need to



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consider securing coverage for the duration of the project on a workers' compensation policy for the state in which he or she will be working. Seeking the help of a workers' compensation specialist in the state(s) where coverage is needed would be advisable. For US companies, Canada's Workers Compensation Boards (separate WCB for each province/territory) can be as confusing to navigate as our own different state systems. Additionally, Workers Compensation coverage in Canada is provided through the government, not by insurers as it is in the United States. Our recommendation for US construction firms who have workers traveling to Canada to work on projects is similar for their Canadian counterparts: seek appropriate expert advice. In Canada, anyone you consult with must be duly licensed, as the Workplace Safety and Insurance Board (WSIB) will not deal with those who are not.

Cross-border commercial auto claims can be very challenging. Where an accident takes place can have a dramatic impact on the outcome. For example, Ontario and Vancouver provinces, the two most traveled by US drivers, are very different from an insurance and liability standpoint. The best advice is to talk with your broker and fleet insurance carrier(s) to be sure you have the right coverage in place for any company vehicles that will be operating outside your home country.

Conclusion

Travel is a necessary part of many types of construction including roofing. And like other aspects of construction work, it comes with its own risks. These should be considered and managed like other construction risks by limiting exposures as much as possible and using appropriate controls for remaining exposures.

To discuss this or other construction risk exposures, talk with your construction risk engineer. 

Fred LeSage is a Senior Construction Risk Engineering Consultant for CRCA Associate Member XL Catlin's North American Construction Division. He can be reached at fred.lesage@xlcatlin.com or (312) 821-8869.

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Industry News

By CRCA Staff

CRCA Members at NRCA—CRCA's Rod Petrick, George Patterson and Alex Hernandez travelled to Washington DC to participate in the NRCA Fall Meetings in October. In addition to the meetings, NRCA scheduled several appointments for Rod, George and Alex to meet with politicians in the Nation's Capital. Thanks to these three and many others for giving back to the industry locally, regionally and nationally.

CRCA at MRCA—MRCA's 68th Annual Convention in St. Louis had great educational sessions covering silica exposures, polyisocyanurate insulation knit lines, with ventilation and insurance adjusting. We saw many CRCA Members who exhibit at the CRCA Trade Show & Seminars too. It's always great to see friends at these events.

CRCA Research—CRCA and the Chicagoland Roofing Council have been key funding contributors to the NRCA's research on issues with structural lightweight concrete and its effect on roofing assemblies. CRCA's contributions are for a multi-year program.

More structural lightweight concrete decks have been poured at SRI, Inc., in Madison, WI. The decks were poured to observe moisture levels at various points in time, associated with when a roof might be installed.

Don't miss the report on Structural Lightweight Concrete and moisture at the CRCA Trade Show & Seminars Jan. 18 & 19, 2018 at Drury Lane. For more information, visit www.CRCA.org. Registration opens in early November.

CRCA's IECC Code Changes Discussed at ASTM—During the last International Code Council (ICC) International Energy Conservation Code (IECC) Development Cycle, CRCA had a code proposal to measure the R-Value of all insulations at 110F, 75F, 40F and 25F. The idea was to have R-Values actually reflect the performance expected in real world conditions. Unfortunately, it was disapproved at ICC. The manufacturers spoke against the proposal stating it was too broad of a proposal. Interestingly, there have been standards proposals balloted at ASTM to do just what CRCA had proposed at ICC for many types of insulation. More on this as we hear it.

CRCA Members in the News—Construction is almost complete on Carlisle's new training center located in Carlisle, Pennsylvania, which will begin hosting training sessions in early 2018. The facility will have 38,000 square feet of space dedicated to hands-on and classroom-style training, including a 125-person conference auditorium with tiered seating, and multiple breakout rooms, offices, and conference rooms.

Lakeshore Recycling Systems announced October 25 that they have been awarded the Illinois Governor's Sustainability Award. This prestigious award recognizes LRS as a leader in implementing cutting-edge and sustainable business operations, technologies, programs, products and company culture. The Governor's Sustainability Award is the longest running environmental award in the nation. For more information, contact Bob Pavic at bpavic@lrsrecycles.com.

Roxul, Inc. announced this summer that along with global parent partner ROCKWOOL International, a new stone wool manufacturing facility was opened in Jefferson County, West Virginia to help satisfy the growing demand for stone wool insulation in the North American marketplace. For more information, contact dave.lawlor@roxul.com.

Walter Payton Power Equipment LLC announced in a crane distribution expansion in September, that Manitex International, Inc. has added Walter Payton Power Equipment LLC as a PM model distributor. Headquartered in Riverdale, IL, Walter Payton will provide sales and service for PM articulating cranes (knucklebooms) in the Midwest. For more information, visit www.wppecrane.com.

Petersen Aluminum is expanding the reach of its trusted PAC-CLAD brand by opening a new manufacturing facility in Phoenix. The 52,000 sq. ft. facility is scheduled to be fully operational in the first quarter of 2018, and will be equipped to provide the Western U.S. construction market with the full line of PAC-CLAD steel and aluminum cladding products, including standing seam roof panels, hidden- and exposed-fastener wall panels, sheet, coil and more.

The Phoenix location is the sixth for Petersen, joining the company's other facilities in Elk Grove Village, Ill., Acworth, Ga., Tyler, Texas, Annapolis Junction, Md., and Andover, Minn. For more information, contact pac-clad.com or info@pac-clad.com.



Adler Roofing Photo

The Mike Adler Memorial Auditorium at the Joliet Boys & Girls Club was dedicated on October 26, 2017. Mike was Vice President of J.L. Adler Roofing Company of Joliet, a 4th generation roofing company and long-time CRCA member. He passed away in 2016 from complications of metastatic melanoma. He was a great

supporter of the Boys & Girls Club, serving as Board President and volunteering countless hours to the organization. The auditorium recently went under a large renovation project and serves as a memorial to Mike and all he believed in. Executive Director Kahil Diab put it simply with "Mike Adler's legacy will forever be alive within the four walls of the Boys & Girls Club of Joliet."



Hunter Panel Photo

CRCA Member Alumni on the Move—Hunter Panels' Matt Peterson was involved at CRCA for many years. He moved a few years ago to Hunter HQ in Maine and was recently promoted to General Manager. Matt replaces retiring Jim Whitton. Congrats to both Matt and Jim.



CRCA Photo

CRCA BBQ a Success— While CRCA is known for industry education seminars, the late September 1st Annual CRCA BBQ joins the golf outing as a way for roofing and waterproofing industry contractors and suppliers to gather. With sponsors Lake Shore Recycling and Waukegan

Roofing Company Inc. and Phil Diederich (Waukegan Roofing) and Mike Doberesch (Bone Roofing Supply) working as grill masters, over 100 members and CRCA families attended.



CRCA Photo



Hines Supply Photo

CRCA History Looking for Old Photos—

The CRCA History Committee is working to gather information from CRCA Members to be used to create a historical compilation of

members' history, products and processes. Contact linda@crca.org today if you have photos or any history information to share!



Former NRCA President Passes Away—

It was announced recently that former NRCA President Don McNamara, passed away on September 16, 2017 at the age of 81. McNamara first joined F.J.A Christiansen Roofing in 1967 and then rejoined in 2000 to help lead the formation of Tecta America Corp., which was a consolidation of 10 leading U.S. roofing contractors that has since grown to more than 50 locations. He also served as Tecta America's first CEO and on its board of directors.

McNamara served as NRCA president from 1986-87 in many other leadership roles. He also served as president of the Midwest Roofing Contractors Association (MRCA). McNamara received NRCA's J.A. Piper Award in 1990 and MRCA's James Q. McCawley Award in 1982. His leadership will be missed.

NFPA Fire Protection Week— NFPA Fire Protection Week is celebrated in October each year. While it focuses a lot on residential fires and child fire safety, there's a lot for adults, CRCA Members and friends too.

The theme, "Every Second Counts: Plan 2 Ways Out!", rings clear and begs the question; How many of us plan two ways out of our workplace? Shopping Mall? Movie Theater? Restaurant? Do we walk to the emergency exits in hotels to see where it goes? Speaking of exits, that was a fire-rated door assembly that provided access to the stairwell. The walls are fire-resistance-rated to provide safe egress. Safety systems were used to keep the fire from spreading into the stairwells.

We at CRCA celebrate Fire Protection Week and share NFPA's call to action to educate about fire safety. When a fire or emergency alarm system goes off in a building, "Grab your stuff and leave now", is what we teach at every CRCA Meeting. And, what about roofing workers above the roof assembly? They need to listen for alarms too. When alarms are not on the roof, they need to be notified. Preplanning needs to be done to understand how to get off the roof and out of the building fast—or defend in place.

For us at the CRCA Office, we grab our laptops, wallets, keys and purses, and leave via the stairwell, where we know the doors close and latch. What about you and your employees and family? Do you have an emergency and reaction plan to fire in structures where your employees participate in various things? Think about it and plan how to act now before the risk appears.

CRCA Members & Exterior Metal Composite Material Panels—Over the past few months since the Grenfell Tower Fire in the UK, the CRCA office has received several questions from members about exterior wall panels. According to the National Center for Certification of Crane Operators, the questions center on fire testing for a wall assembly that might wind up in the roofing contractor's scope of work. We suggest that CRCA Members verify that the product testing takes place as an assembly as required by code requirements in the International Building Code or code adopted by the jurisdiction.

There are requirements for combustible insulation and Metal Composite Materials with combustible components in Chapter 14 of the IBC.

CRCA Today SIDEBAR: I-9 Reporting Is Here to Stay—Are You in Compliance?

By CRCA Staff

In March this year, it was reported that President Trump will focus heavily on immigration and dramatically expand the resources of the U.S. Dept. of Homeland Security to accomplish this. Part of this expense includes the hiring of 10,000 Immigration Customs Enforcement (ICE) agents across the country.

How does this affect the construction industry? It is anticipated that due to the increase of agents, Homeland Security Audits will increase to around 3,000 this, for a start, with the construction industry a likely target. With a typical paperwork violation fine of \$2156 PER DEFECTIVE I-9 FORM, employers have a lot to lose in not complying. There are many misconceptions on the procedures to comply with this legislation. For Example:

- 1. "My firm does not need to comply; we don't hire any immigrants".** – WRONG! The common misconception is that I-9 (Employment Verification Paperwork) only needs to be completed for those firms who hire immigrants. The I-9 is necessary to verify an individual's right to work in the United States. You as the employer are responsible that the proper steps are completed in the required timeframe for all employees.
- 2. "My firm only hires union labor; we don't need to comply".** – WRONG! I-9 regulations allow an employer who hires labor through a multi-employer bargaining agreement to rely on I-9 paperwork completed in the past three years by another employer within the same working agreement. However, if the paperwork was not properly completed by the first employer, the subsequent employer assumes civil liability from these errors.
- 3. "ICE Agents need a warrant to inspect my firm's I-9 forms"** – WRONG! While ICE does not need a warrant, they must provide at least three days written notice.

Want to learn more? Attend the I-9 Seminar at the 35th Annual CRCA Trade Show & Seminars, Thursday, January 18, 2018 at Drury Lane Conference Center, Oakbrook Terrace, IL. Christopher Thomas, from Ogletree Deakins, a leading labor and employment law firm, will present an overview of the I-9 regulations, best practices for compliance with the I-9 paperwork and what to do if audited by ICE. This important seminar is geared to owners and staff members to learn about this immigration-based paperwork BEFORE you are visited by ICE!

For more information, visit www.CRCA.org / Events / Trade Show.

In several cases, the NFPA 285 fire test is required for the assembly. The NFPA 285 test is not just the materials when it comes to combustible elements used on exterior walls. It is for the complete assembly. There are some exceptions in the code too. Just because the material has a flame spread or smoke developed rating, doesn't make it suitable in all applications. The regulations change with height of the building as well.

More on this in future issues of *CRCA Today*.



OSHA[®] **OSHA Silica Standard**—New regulations to the OSHA Silica Standard took effect Sept. 23, 2017. OSHA's enforcement began the week of Oct. 24, 2017. To meet the new regulations, contractors need to have a plan to mitigate the risks through an initial assessment of the employee's exposures where silica is present in their work activity. They also need to have a plan for managing the exposures to below the limits. Key points of the new regulation include:

- Reduces the permissible exposure limit (PEL) for respirable crystalline silica to 50 micrograms per cubic meter of air, averaged over an 8-hour shift.
- Requires employers to use engineering controls: (such as water or ventilation) to limit worker exposure to the PEL; provide respirators when engineering controls cannot adequately limit exposure; limit worker access to high exposure areas; develop a written exposure control plan; offer medical exams to highly exposed workers; and train workers on silica risks and how to limit exposures.
- Provides medical exams to monitor highly exposed workers and gives them information about their lung health.
- Provides flexibility to help employers—especially small businesses—protect workers from silica exposure.

Visit <https://www.osha.gov/silica/> for details on the regulations or read the article in this *CRCA Today* issue. A key element is that there is a requirement to keep records of employees who are exposed and fall under the regulations. The National Roofing Contractors Association (NRCA) has done testing on various operations on rooftops where silica might be expected. Join NRCA to get access to the info. It's worth the expense. Visit www.NRCA.net.

Crane Operator Certification Requirements Extended Again—Recently, OSHA announced that it is seeking another year extension to the new crane operator certification requirement.

OSHA announced that it will propose changes to the Subpart CC—Cranes and Derricks that will extend the deadline for crane operator certification by one year, to November 10, 2018. The following is a set of questions and answers that discuss this proposal and its effects on the construction industry. For more information, visit OSHA.gov and search for Crane Operator Frequently Asked Questions.

- Reason for the Delay: According to OSHA, the reason for extending the compliance date for crane operator certification is to ensure it has enough time to complete a rulemaking addressing two issues raised after publication of Subpart CC—Cranes and Derricks.
- Type or Capacity: First, Subpart CC—Cranes and Derricks requires that operator certification be by "type and capacity." The two largest testing organizations have issued certifications by "type" but not "capacity." These certifications are not currently valid under Subpart CC. The agency is concerned that this will disrupt the construction industry severely, both for employers and crane operators who thought their certification would be valid.
- Employer Assessment: Many crane industry representatives requested that OSHA revise the crane standard to preserve a requirement that employers assess the ability of their operators to run the cranes to which they are assigned.

More on this as OSHA proceeds down the rulemaking path.

CRCA Seeks Input—Chicago Crane Operator Certifications—The City of Chicago has its own regulations for crane operators. A written and practical exam that is different from the National OSHA Standards is the centerpiece of the regulations. The City states that the additional certification is more stringent than the national standards.

CRCA continues to work with the City when we hear of issues with the written or practical exam from CRCA Members with some successes already. If a CRCA Member Company employee was not treated fairly, notify the CRCA Office with specifics including name of the person, date the exam was taken, and the issue... and we'll work with the City of Chicago to attempt resolution. Contact linda@crca.org.

The CRCA has great respect for the Crane Operators and the City of Chicago for the excellent tower crane record in the City when compared with other large cities. CRCA has been working with the City of Chicago for several years on the issue that Local 150 Crane Operators are the developer of the exams and are also the adjudicator for roofing industry workers who operate smaller cranes lifting roofing materials to rooftops.



Walter Payton Power Equipment Photo



ICC Image

New I-Codes Released—

The International Code Council published the 2018 International Family of Codes recently including the International Energy Conservation Code (IECC). For Illinois, that means we might be about 18 months from the approval of the

2018 the IECC in this state. There were no changes to the amount of insulation required for rooftops in Zone 5 (Illinois is Z-5) for the new codes nor changes in reflectivity either. More as the process gets moving.

CRCA at IRE—It's never too early to start planning a trip to the International Roofing Expo. This year's New Orleans Expo features education and the one of the biggest trade shows in North America. Look for CRCA's participation during SRI's Matt Dupuis' research report on the roofing issues with Structural Lightweight

Concrete. The Chicagoland Roofing Council also moderates a program for union roofing contractors featuring International Union of Roofers, Waterproofers and Allied Workers President Kinsey Robinson. Don't miss these programs. Visit www.nrca.net/roofing/Annual-convention-395 for more information.

ICC President Dwayne Garriss receives NASFM President's Award

The National Association of State Fire Marshals (NASFM) selected International Code Council Board of Directors President and Georgia State Fire Marshal M. Dwayne Garriss as the recipient of its 2017 President's Award. This prestigious award recognizes outstanding efforts and leadership during the past year. Garriss was one of those from NASFM that helped move the vegetative roof covering and photovoltaic panel regulations at ICC's International Fire Code Development Process. For more information, visit www.FireMarshals.org.



National Association of STATE FIRE MARSHALS

As President Garriss' term is ending, we applaud his theme, 'Many Voices for One Purpose'. The ICC, through its committees, councils, Building Safety Month efforts and code development process, focuses on building safety. CRCA salutes his service through active participation at the code development processes and service to the ICC.



NIBS Recommendations for 45th President—

The U.S. Congress established the National Institute of Building Sciences (NIBS) in 1974 to serve as an authoritative source of information on building science and technology.

More than four decades later, this non-profit, non-governmental organization still brings the public and private sectors together to find solutions to make buildings better and safer, as well as buildings that are more economical places to live, work, play and learn.

From seismic safety to building information modeling, members of the Institute's Councils and Committees—

among them some of the most renowned experts in their respective fields—continue to address building-related issues. With those concerns in mind, the Institute offers the recommendations to the Trump Administration. Check them out at www.nibs.org/cc.

NEW Let's Fix Construction—The CONSTRUCT Show and the Construction Specifications Institute (CSI) are known for linking thousands of industry leaders to procure real-world, practical knowledge for building success. This goal is the basis for the partnership between CONSTRUCT and Let's Fix Construction, a new program announced at the CSI Annual Convention in Providence, RI this September. Check out LFC's blog at www.LetsFixConstruction.com. Watch for more from this group in the future.



Ogletree Deakins' Randall Ruff presenting at the September 2017 CRCA Membership Meeting. CRCA Photo

AIA Updates Contract Documents—If you missed CRCA's September Membership Meeting, you missed an informative program on the AIA Contract Documents presented by Randall Ruff and Eric Berg, attorneys from Ogletree Deakins, a leading labor and employment law firm. These important documents are used every day by contractors in Chicago.

Every 10 years, AIA's Documents Committee updates the A201 family of documents. This year's release includes the AIA new A102 (*Standard Form of Agreement Between Owner and Contractor*), where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price and A104 (*Standard Abbreviated Form of Agreement Between Owner and Contractor*). This document replaces the A107 document.

Check out the new documents, available for a fee at <https://www.aiacontracts.org>. For CRCA Members, this important presentation is available in the CRCA.org Members Only Section.

Fires in under-construction, wood-framed buildings—A recent article in the *Wall Street Journal* raised questions about the use of wood frame buildings instead of higher cost steel buildings. Fire safety officials say wood-frame buildings are generally safe once they are completed, but are particularly vulnerable to blazes before they are outfitted with walls and safety features, such as sprinklers.

<https://www.wsj.com/articles/apartment-fires-are-tied-to-cheaper-wood-based-construction-1502988893?mg=prod/accounts-wsj>


Hot-Work Safety, for HVAC, Plumbing, Electrical and Roofing Workers on rooftops now becomes more important than ever. Consider additional training on the proper use by workers when tools are used that could ignite wood and cause fire before or after buildings are constructed. Check out NRCA's CERTA Training at www.NRCA.net.

NEW Underlayment Association—A group of manufacturers has formed the Asphalt Underlayment Council to promote asphaltic roofing underlayments in the codes, standard and other areas. Visit them at www.AUCUnderlaymentCouncil.org.



RCI Inc. Photo

NEW RCI, Inc. CEO—Lionel van der Walt has been chosen to succeed James Birdsong as Executive Vice President and CEO of the RCI, Inc., formerly the Roof Consultants Institute. The association broadened its scope into building envelope, hence the change to RCI. His past experiences include being a South African Air Force

officer, International Air Transport Association, and as President of Cargo Network Services. RCI states that his goals are to enhance RCI's influence and recognition in the industry while providing continuous improvement to RCI education and accreditation programs. Best wishes to van Der Walt and RCI. 

Steps to Protect Contractors and Suppliers—Mechanic’s Lien Rights

By Michael T. Nigro, Attorney

Whether you are contractor or supplier, it is important to know and protect your Mechanics Lien rights. Mechanics Lien rights vary from state to state. Knowing what your lien rights are and exercising those rights can help insure that you get paid. Here is an outline of your Illinois Mechanics Lien and Bond rights and your rights on Federal projects.

Lien Rights on Private Property

SCOPE: Lien covers value of all material, equipment, rental equipment, and labor delivered to job for purposes of incorporation into the job or use on the job in the case of rental.

1. Consumer Remodeling. Within 60 days of your first delivery and before payment is made to the general contractor by the Owner, written notice is required to be served upon the Owner and the mortgage company by personal service or Certified Mail. If the owner pays in full before you serve this notice, then your lien will fail. The 90-day Notice and Claim for Lien must also be served on the Owner. You and your contract must also comply with the Illinois Home Repair and Remodeling Act.
2. Business Remodeling or New Construction. Within 90 days of last significant work or material to complete your contract, a Notice of Claim for Lien must be served upon the Owner and the mortgage company by personal service or Certified Mail. Corrections of your own work do **not** extend the last date of work. Give your attorneys at least ten business days prior notice, so that they do their title search and prepare the Notice within the 90-day period.
3. Even if you serve your 90-Day Notice of Claim, your lien may fail if the owner pays the general contractor in full based on a false contractor’s affidavit which fails to list your company. If the owner pays the general contractor any money after service of your 90 Day Notice, your lien is protected to the extent of that payment.

4. Within four (4) months of your last work, a Claim for Lien should be filed with the Recorder of Deeds.
5. If you record your lien after four months, your lien is only good against the owner’s interest and subject to the mortgage company and any third party purchaser.
6. Even if the above has not been done, your company may still have lien rights if your company was listed on a contractor’s affidavit submitted to the Owner.
7. If you were employed by or sold directly to the owner, you are treated as a general contractor or original contractor. The 90-day Notice is not required. In that case you still need to record your lien within four (4) months of your last work to prevail against the mortgage lender and third party purchasers and within two (2) years of your last work to prevail against the owner only.
8. Within two years of your last work or material, excluding corrections of your own work, you must file suit to foreclose your lien.

Lien Rights on Public Jobs

State of Illinois, Municipalities and Political Subdivisions in State of Illinois 770 ILCS 60/23.

SCOPE: Lien covers value of all material, labor and rentals. This is a lien only on the funds yet to be disbursed to the general contractor.

1. Serve Statutory Notice before payment is made to the General Contractor.
2. Suit to Foreclose the Public Lien must be filed and a copy served on Public Body within 90 days of service of Notice.

Bond Claim on Public Jobs

1. State of Illinois, municipalities and political subdivisions. 30 ILCS 550/1 & 2.

SCOPE: Bond is required by Statute to cover material and labor. It does not cover rentals, unless the Bond has language indicating same.

Notice of Claim on Bond must be served within 180 days of last work or material delivered. Suit on the bond must be filed within one year of the last work or material delivered.

2. Federal Jobs—including all Departments and Agencies. 40 USC Sections 270(a) and 270(b).

SCOPE: Bond covers material, labor and rental.

- a. If you have been employed by the general contractor, suit on the Bond must be filed within one year of the last day you provided material, labor or rental equipment.
- b. If you have been employed by a subcontractor of the general contractor, a Notice of Claim must be served on general contractor within 90 days and suit must be filed within one year of supplying the last material, labor, or rental equipment.
- c. If you have been employed by a sub-subcontractor, you have no rights under the Bond.

Common Defenses to Mechanics Lien Rights

1. Failed to comply with time limits for notices, recording and filing suit.
2. Failed to comply with the statutory requirements for the Notice or the recorded Claim for Lien. This includes errors in the identification of the legal owners and mortgage companies, and errors in the identification of the contract and the last date of work.
3. Gave a Waiver of Lien to date covers unpaid work provided before said date.
4. Filed an inflated lien claim. An intentionally inflated lien claim may render the lien void.
5. General Contractor paid pursuant to Contractor's Affidavit before the Notice of Claim is served. (This does not apply to Bond Claims.)
6. Failed to file suit after receipt of 30-day demand to file suit.

Best Practices

Below are some best practices to follow. Take a moment to read and determine if your firm is following these:

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- A. Obtain the following information from each customer on each project:
 - (1) Name of job, address or exact location of the project, identity of general contractor and Owner.
 - (2) Bonding information, if any.
- B. Notify the owner in writing that you are a subcontractor or supplier on the project.
- C. Apply payments to correct invoices.
- D. If a waiver of lien is requested for a partial payment, use a Partial Waiver Form. Do not use a Waiver of Lien to Date form, unless you back date waiver to the last invoice that is waived. All invoices prior to and including that date will be waived.
- E. Attempt to tender waiver directly to the title company, lender, or Owner **in trust** to be used only upon payment to your company. Send copies (marked "copy") to the customer and the general contractor, so that they know the waiver has been tendered. This will protect you from the customer who uses

your waiver, receives payment, and does not remit your portion thereof. By giving your waiver to the customer, you risk your customer defrauding you and terminating your lien rights by use of your waiver.

- F. Typically, a Final Waiver of Lien waives all rights to labor performed and material, even for work and material to be provided in the future. If you are requested to provide additional labor or material after giving a final waiver, you must have a separate contract or purchase order that clearly distinguishes the additional work. If you a supplier your company should have and use its own form for a Final Waiver of Lien that does not waive future deliveries. 

Michael T. Nigro is an attorney and one of the founders of Nigro, Westfall & Gryska, P.C. in Glendale Heights, IL. Mike and his firm represent subcontractors, supply houses, and some general contractors and owners, in the Chicago metropolitan area. He is a frequent speaker at construction association events and has authored many articles on construction law published in trade and legal publications. To learn more, contact Mike at Mike@NigroWestfall.com or visit www.nigrowestfall.com

Editor's Note: CRCA would like to thank Mike for his presentation at the October Emerging Leader Event!



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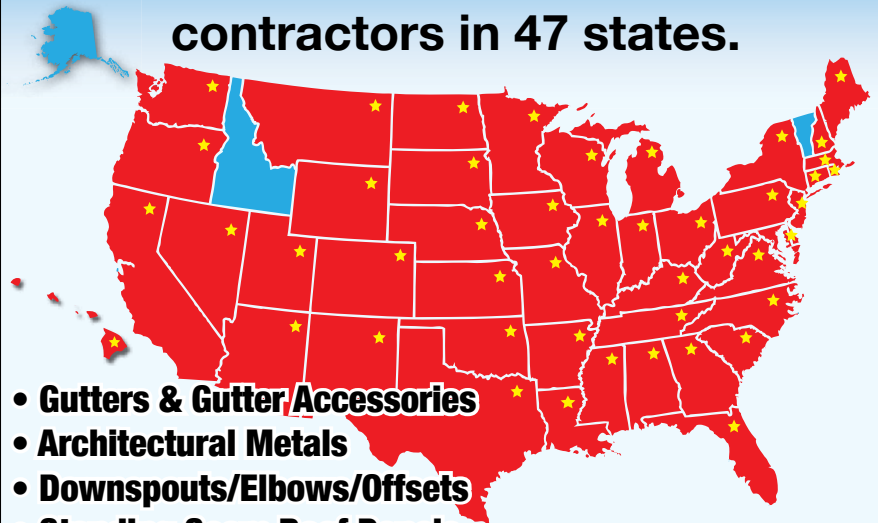
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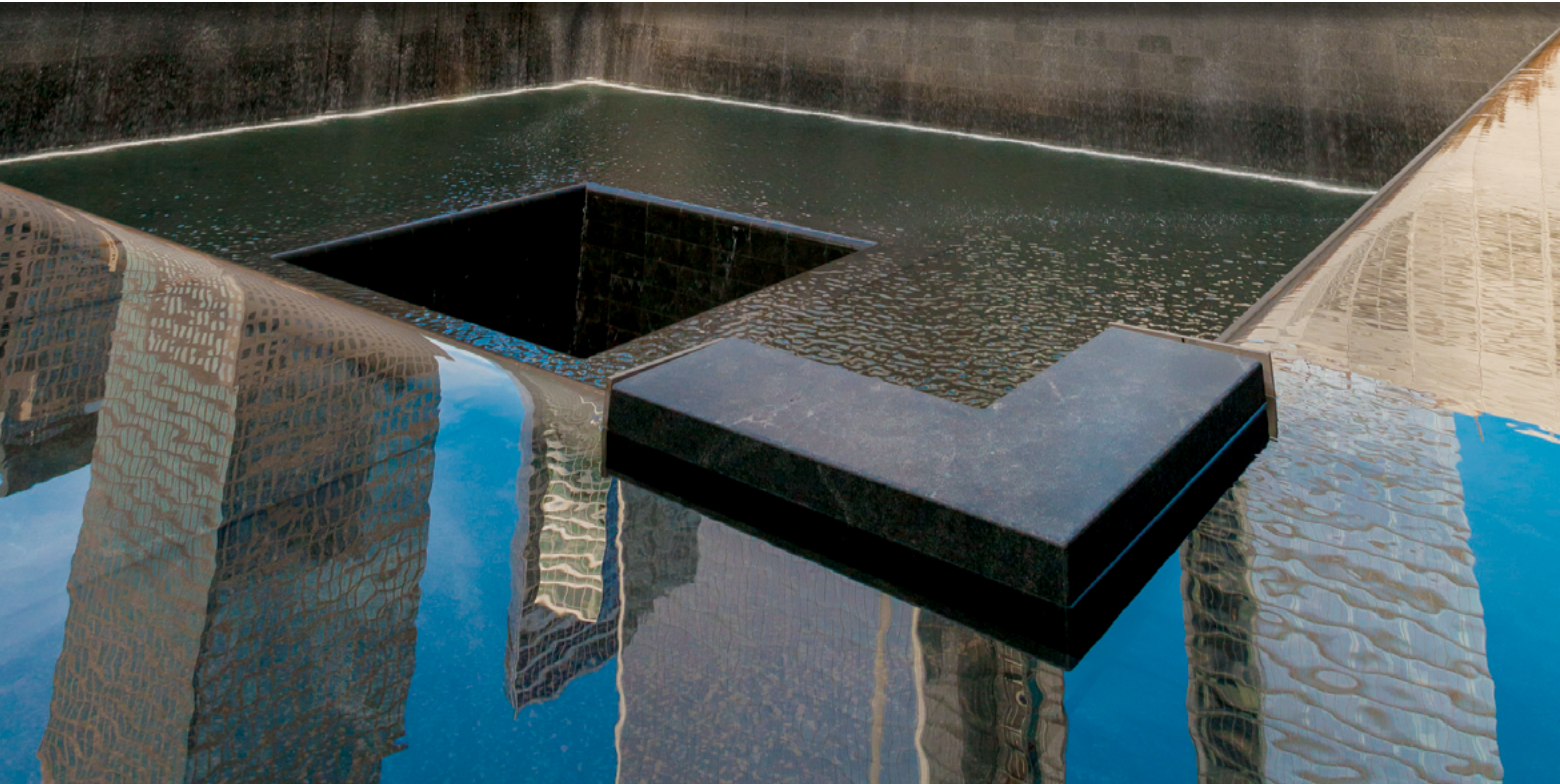
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November 14*

CRCA Luncheon, Membership Meeting & Elections
Oak Brook, IL
www.CRCA.org

November 28

CSI Chicago Chapter Meeting
Construction Law Update
www.csiresources.org/chicagochapter

December 1*

CRCA Annual Awards Dinner
Drake Oak Brook
Oak Brook, IL
www.CRCA.org

January 17-19, 2018

CRCA Trade Show & Seminars
Drury Lane, Oakbrook Terrace, IL
www.CRCA.org

February 4-8, 2018

NRCA's Annual Convention & Expo
New Orleans
www.nrca.net/roofing/Annual-convention

March 22-27, 2018

RCI Convention & Trade Show
Houston
rci-online.org

*CRCA Members only and their guests.

Not a CRCA Member? Visit www.CRCA.org for membership information.

Illinois Legislative Update

CRCA Legislative Consultant Margaret Vaughn has been hard at work on roofing specific legislation during the last two Springfield sessions with successful passage of HB 732 and as well as the October Session to overturn Governor Rauner's subsequent veto on this important roofing legislation.

This legislation was introduced to add the definition of "roof repair" to the Roofing Industry Licensing Act, clarifying the exemption that allows employees to perform "roof repair" without a license for their employer's commercial/industrial property. The bill states that for Roof Recover or Roof Replacements, an IL Roofing Contractor License would be needed.

Vaughn enlisted the help of many allies including the IL Firefighters Assoc., who advocate that complex roofing work such as torching needs to be done by IL Licensed Roofing Contractors. The veto override is now on the way to the IL Senate. Stay tuned for more legislative updates!



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