

CAROLINAS CONTACTS

CRSMCA - Covering the Carolinas for over 75 years

MAY - JUNE 2023 ISSUE

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FEATURED ARTICLE: A Revised Approach to Wind Calculations

CRSMCA EXECUTIVE MEMBERS

President, Bert Pickens, Pickens Contracting, Inc.
1st Vice President, Jason Tetterton, Curtis Construction Co., Inc.
2nd Vice President, Bobbie Jo Deal, CityScape Roofing, Inc.
Secretary/Treasurer, Robert Hodges, R.K. Hydro-Vac, Inc.
Past President, Matthew Williams, CityScape Roofing, Inc.

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02 Casey Morgan, Triad Roofing Co., Inc. [Winston-Salem, NC]
03 Mike Degner, Radco Roofing [Mount Holly, NC]
04 David Panella, Hamlin Roofing Co., Inc. [Garner, NC]
05
06 Geoffrey Rempel, Hound Roofing, Inc. [Wilmington, NC]
07 Kristina Zushma, Spann Roofing & Sheet Metal [Conway, SC]
08
09
10 Bryan Pribula, CL Burks Construction [Charleston, SC]

ASSOCIATE GROUP EXECUTIVE MEMBERS

President, Chris Love, Mule-Hide Products, Inc.
1st Vice President, Darren McEvoy, Premier Building Products, Inc.
2nd Vice President, Tara Burgei, Johns Manville
Secretary/Treasurer, Mark Cameron, Mid-States Asphalt
Past President, Sean Dougherty, OMG, Inc.

ASSOCIATE LIAISON MEMBERS

01 David Summers, Beacon Roofing Supply [Advance, NC]
02 Steve Hall, Sika-Sarnafil [Winston-Salem, NC]
03 Brad Damewood, Beacon Roofing Supply [Charlotte, NC]
04 Andy Butler, Roofers Supply of Greenville [Charlotte, NC]
05 Justin Maycher, GAF Materials Corporation [Raleigh, NC]
06 Bradley Hall, Mid-Atlantic Roofing Supply [Raleigh, NC]
07 Chad Bolt, ABC Supply Company, Inc. [Greenville, NC]
08 Todd Casey, Beacon Roofing Supply [Goldsboro, NC]
09 Anna Read Maltos, Superior Distribution [Wilmington, NC]
10 Kyle Bullock, Mid-Atlantic Roofing Supply [Wilmington, NC]
01 Jake Smith, Mid-Atlantic Roofing Supply [Wilmington, NC]
02 Lee Wells, Beacon Roofing Supply [Myrtle Beach, SC]
03
04 Nathan Rollins, HB Fuller Construction Adhesives [Greer, SC]
05

THE CRSMCA MISSION STATEMENT

To promote and safeguard the common business interest of its members and to improve conditions by educating all persons concerning the roofing and sheet metal business and industry. To work for the development and progress of the roofing and sheet metal business industry and to work with individuals' organizations and governmental agencies toward the achievement of a stronger profession of the roofing and sheet metal industry.

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CAROLINAS ROOFING & SHEET METAL CONTRACTORS ASSOCIATION, INC.

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CRSMCA STAFF MEMBERS

Executive Director, Carla B. Sims [cbsims@crsmca.org]
Assistant, Karín Barahona [staff@crsmca.org]

CRSMCA MAGAZINE MEMBERS

Chairman, Henry Sackett, ABC Supply Company, Inc.
Josh Dernosek, CL Burks Construction
Brandon Jackson, Petersen Aluminum Corporation
Rainy Ugenmach, NBHandy Company
Carla Sims, CRSMCA

Carolinas Contacts address issues and concerns of the roofing industry. Technology, test, and building codes are constantly changing, and such changes may not be reflected herein. All information is presented for the benefit of our readers and does not necessarily reflect the views of CRSMCA. Press releases and product information presented do not reflect all available materials. Before purchasing, installing, using, or recommending any product, system, or method, readers should make independent evaluations.

AFFILIATED WITH NATIONAL ROOFING CONTRACTORS ASSOCIATION, INC.



2023-2024 CALENDAR OF MEETINGS

VISIT US AT
WWW.CRSMCA.ORG
704.556.1228

REGISTRATION FOR EACH MEETING CAN BE FOUND ON THE HOME PAGE OF THE CRSMCA WEBSITE!

ANNUAL GOLF TOURNAMENT

ROCKY RIVER GOLF COURSE
CONCORD NC

OCT
12
2023

MAR
21
2024

1ST SPORTING CLAYS TOURNAMENT

ROCKY CREEK SPORTING CLAYS
RICHBURG, SC

DETAILS & REGISTRATION INFORMATION WILL BE AVAILABLE IN THE FALL 2023

SPRING DISTRICT MEETINGS

COMBINED MEETINGS TO BE ANNOUNCED

APRIL
2024

JUNE
26-30
2024

CAROLINAS ROOFING EXPO & ANNUAL MEETING

MARRIOTT RESORT GRANDE DUNES
MYRTLE BEACH, S C

DETAILS CAN BE FOUND ON THE HOME PAGE OF THE CRSMCA WEBSITE... REGISTRATION WILL BE AVAILABLE IN THE FALL 2023..



Message from President, Bert Pickens

Everyone... Hard to believe that the 3rd quarter of 2023 is coming to a close, this year seems like it has gone by faster than most with our 80th Annual Meeting/Summer Convention approaching next week.

It has been an awesome experience serving as the CRSMCA President. Our group has done a lot of great things this year and the entire CRSMCA organization should be very proud of where things are headed.

We were able to host all of our District meetings with the exception of Districts 1, 2, and 8. The meetings were very well attended, and it was good to catch up with folks at some of the district meetings that I haven't seen in quite some time.

Serving the association along side of Jason Tetterton, Bobbie Jo Deal, and Robert Hodges on the Executive committee as well as Chris Love as the Associate Group President has been a rewarding

experience. Their leadership and commitment will undoubtedly continue to move CRSMCA in a positive direction. With just a little more effort and monetary commitment from all of the members, our organization will be able to perform some long-term building maintenance items that are normal for a 20 plus year-old building. I am excited to see this happen (it has been a long time coming) and we can all continue to be very proud of this building asset that sets this organization apart from other organizations.

I look forward to seeing each of you in Asheville, NC, June 22-25. Our golf tournament will be quickly approaching in October and our group is planning to coordinate a skeet shoot in the Spring of 2024—hopefully this will be just as successful as our golf tournaments have been. More announcements and planning will be forthcoming on our 1st Trade Show & Annual Meeting Convention in June 2024 in Myrtle Beach - we all anticipate this to be a well-attended event and will help our organization to adapt to a more profitable merged trade show/annual meeting convention style approach. So, please plan to attend and make this successful.

Last but not least, I want to sincerely thank Carla for what she does for this organization. She keeps this engine running smoothly and her commitment/dedication to our group is very much appreciated. I thank you for your leadership and it has been my privilege to be able to work with you not only with CRSMCA but also on the CRSMCA SIF's board. I look forward to watching the things we have set in motion continue to grow and prosper.

*Bert Pickens, Pickens Contracting, Inc.
CRSMCA President 2022-2023*

DETAILS & REGISTRATION AVAILABLE ONLINE AT
www.crsmda.org/meetinginfo

ANNUAL GOLF TOURNAMENT
CAROLINAS ROOFING AND SHEET METAL CONTRACTORS ASSOCIATION, INC.
PROFESSIONAL ROOFING CONTRACTORS COVERING THE CAROLINAS
THURS OCTOBER 12
ROCKY RIVER GOLF CLUB [CONCORD, NC]

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Hello Everyone... What a year this has been. *I can't express how grateful I am for the privilege of serving as your Associate Group President.*

Speaking for myself, I'm very proud of what we have accomplished over the last year. The wheels are in motion to make our wonderful association more social, solvent and successful.

Serving alongside Bert Pickens has also been a great pleasure. His dedication to this organization has been inspiring.

Although we are only half-way through 2023, we have revamped the district meetings, which I was able to attend many of them and I can say they were very successful.

Coming in October, we have our nearly sold-out golf tournament.

Come next spring, we will introduce skeet shooting, that will be organized by your incoming president, Darren McEvoy.

Last but not least, next year will be our first (intentional) Expo trade show and Annual Meeting Conference in Myrtle Beach, SC. This will be the best of both worlds. I hope everyone can attend and more importantly, send some of your employees to the Grand Strand to participate in the events that are being planned.

On behalf of Betsy and I, thank you to everyone in this organization for making us feel like family.

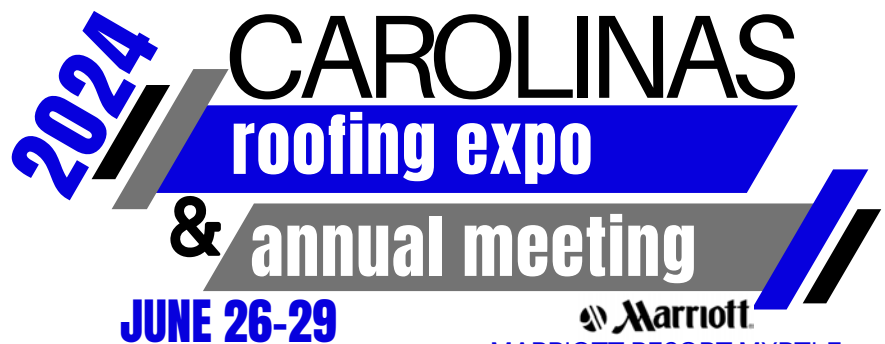
Chris Love, Mule-Hide Products, Inc.

CRSMCA Associate Group President 2022-2023



Message from Associate Group President, Chris Love

SOME NEW THINGS ARE COMING TO CRSMCA!



**details & registration coming in the Fall 2023*

MARRIOTT RESORT MYRTLE BEACH GRANDE DUNES MYRTLE BEACH, SC



Message from Executive Director, Carla B. Sims

2023 is proving to be the best year yet!

The CRSMCA Board members and Staff set out to be intentional about re-engaging the CRSMCA members during the year of 2023. Although we are only six-months into the year, CRSMCA has seen an increase in attendance for events thus far:

- **Carolinas Mid-Winter Roofing Expo had an increase in attendance of over 75% from the past two-years; although exhibitor participation did decline due to company mergers and manufacturer/distributions sales meeting conflicts
- **District Meetings had an overall record number of attendance as far back as five-years with a strong support of sponsorships as well
- **Annual Meeting/Summer Convention is showing a strong attendance of almost 160 people; the highest attendance since 2010!

With the support of members attending the meetings and events, this helps CRSMCA to be able to provide to its members the increased value that all are seeking: networking with others in the industry; personal and professional development; mentoring; best practices and certified education opportunities; career planning and leadership opportunities.

We hope you are finding your way to into re-engaging with CRSMCA, your peers as well as helping others to re-engage! CRSMCA is excited for the many opportunities that are still being planned for YOU and those within the roofing industry.

If you do not know where to start... contact me directly. I will be happy to have an open conversation about what is happening for you!

I look forward to speaking with you soon and know that this will be a great opportunity for CRSMCA! -Carla B. Sims, Executive Director

find us on social media



DOTTIE NAGLE SCHOLARSHIP PROGRAM

CAROLINAS ROOFING & SHEET METAL CONTRACTORS ASSOCIATION, INC.

Congratulations to our Scholars

CRSMCA would like to recognize the following students on receiving the CRSMCA Dottie Nagle Scholarship for 2023.

The annual scholarship is sponsored by the CRSMCA Annual Golf Tournament and has now awarded 10 students through its successful event.

The winners are selected by an anonymous panel of CRSMCA Board members. The winners receive a \$2,500 check to the institution of their choosing.

Congratulations on this great accomplishment. You did all the hard work. CRSMCA hopes that this scholarship will develop your prospects and unfolds the doors of opportunities before you.

Jenna Cameron, graduate from Faithful Scholars (Homeschool). Jenna plans to attend Liberty University to study law. She is the daughter of Mark and April Cameron of Mid-States Asphalt.

"I plan to earn my law degree by 2026 and practice law. During my law school education, I strive to excel and show that even at the young age of 16, I can still achieve my goal. My goal after school is to eventually have my own law firm and overall, I want to bring glory to God with my law degree."

Matthew Mobley, graduate from East Duplin High School.

Matthew plans to attend University of North Carolina at Chapel Hill or North Carolina State University with his bachelors. He is the son of Joseph Mobley of Curtis Construction Company, Inc. in Kinston, NC.

"My goal for my life following high school is to attend either the University of North Carolina at Chapel Hill or North Carolina State University. I have several ideas of what I would like to pursue in life as I have looked into NC State's forestry degree since it allows me to work outdoors and work to protect natural resources. However, should i be accepted to UNC Chapel Hill, I would like too pursue a degree in accounting. While these might seem completely different, both degrees are interest that I have had for some time would be happy to pursue a career in either."

NEWS FROM THE CAROLINAS



LEARN ABOUT THE CRSMC SELF-INSURERS FUND PROGRAM

Carolinas Roofing and Sheet Metal Contractors – Self-Insurers Fund is the oldest worker’s Compensation group funded in the Carolinas and could be saving your company money! Members within the CRSMC-SIF program are not just purchasing their workers compensation but investing into a program that brings additional value to their company through a commitment to ensure the safety of their employees. As a member/customer within the program, you participate in building a fund that is beneficial for all members/customers within the program, you could receive competitive rates within the insurance industry, and you could receive a return of interest determined by the CRSMC-SIF Trustees and other approved returns during the year. In the year 2018, the CRSMC-SIF returned more than **\$1 MILLION DOLLARS** to the CRSMC-SIF members!

Additionally, the CRSMC-SIF is large component of support for the CRSMCA through sponsoring the CRSMCA Annual Meeting/Summer Convention and attendance of Trustees at the event. **HAVE YOU CONSIDERED CRSMC-SIF FOR YOUR WORKERS COMPENSATION NEEDS?**

Company trains inmates to become roofers; second chance given through program

Written by Jay Weaver, Dejon Johnson
Published on April 27, 2023



A roofing company is giving some South Carolina inmates a head start once they are released, thanks to their free training program. It can be difficult for inmates to find a job, so GAF Roofing Academy is giving opportunities to those who may just need a second chance.

“It’s given guys like me the leg up that we’re going to need when we leave out of here. We already have employment. It’s just great an opportunity to get back into society the right way when you come out,” said George, an inmate at the Manning Reentry/Work Release Center on Beckman Road in Columbia.

George, who was a painter before his time in jail, has been incarcerated for more than 15 years and now has 14 months remaining. He says that his family has supported him for more than a decade, and it’s his turn to give back.

“It means a great deal to me, to get this training, you know. This training is going to give me the opportunity to get gainful employment, you know, to help take care of my family,” said George.

GAF Roofing Academy is teaching inmates skills in the roofing industry for free, and the Manning Reentry/Work Release Center has 16 inmates participating in the training. *[continued on pg 9]*



NCDOL
N.C. Department of Labor

www.labor.nc.gov

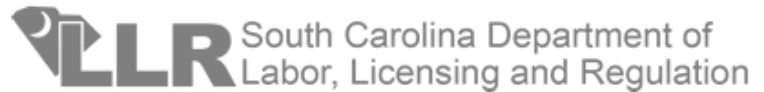
The NCDOL is pleased to offer **pre-recorded webinars** ready for you and your employees to view at your convenience. To access a webinar visit

www.labor.communications.its.state.nc.us/OSHPublic/ETTA/class_regist/calendar.cfm, double-click on the applicable safety and health topic below and it will automatically start the training session.

Note: Some of the webinars are hosted on a training platform and will require you to log in with your name and email in order to access the training session.

The Department of Labor does not provide certificates for employees viewing our pre-recorded webinars. These webinars were live recordings and contain chat conversations. For this reason, you will not be able to interact with the instructor during the recording. If you prefer to receive a certificate and have interaction with an instructor, please refer to our training schedule above for current live webinar offerings.

Training information, registration and course details can be found at www.labor.nc.gov/safety-and-health/training



www.llr.sc.gov

Training information, registration and course details can be found at www.scosha.llronline.com/outreach/trainingaspx

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(continued) Company trains inmates to become roofers; second chance given through program

Officials from the GAF Roofing Academy say that this is the second time the training has taken place inside an SC Department of Corrections facility, and South Carolina is the only state in the country to offer the program to inmates.

"It makes perfect sense. You have a need, and you have people who are willing to fill that need, and all they need is that little jump start," said Jay McCord, GAF Roofing Academy.

SCDC Director Bryan Stirling says that programs like this help to keep repeat offenders to a minimum.

"The South Carolina Department of Corrections has one of the lowest, the lowest recidivism rate in the country. It's about 17 to 18 percent, and when I took over it was 32 percent. We can see from the program going on behind us, that we can hear right now, and talking with the folks you all talked to, why it's going down," said Bryan Stirling, Director of the South Carolina Department of Corrections.

The GAF Roofing Academy says that they plan to offer this program twice a year, so as to better prepare inmates for life once they are no longer behind bars.



Roofing Day in D.C. 2023 was a huge success!

Roofing Day in D.C. 2023 was held April 18-19 with more than 220 attendees representing 33 states and the District of Columbia.

Participants took to Capitol Hill to discuss workforce challenges, pro-business tax policy and funding for the Department of Energy's Building Technologies Office.

"As the roofing industry faces ongoing challenges, it is more important than ever for industry professionals to interact with lawmakers face-to-face to share information and concerns, and that's exactly what happened here," says McKay Daniels, NRCA's CEO. "In one day, roofing professionals attended more than 170 meetings with congressional leaders and their staff. Thank you to all who attended this significant event."

Couldn't make it this year? Please save the date for Roofing Day in D.C. 2024, which will be held April 16-17 at the Grand Hyatt Washington.

Recession likely to start in Q3 as Fed sustains inflation fight: Fannie Mae

Written by Jim Tyson, Senior Reporter, Published May 22, 2023, ConstructionDive

Dive Brief:

- A credit squeeze following banking system turmoil and the impact from 10 straight hikes in the Federal Reserve's benchmark interest rate will likely trigger recession during the third quarter and a 0.3% dip in growth for the year, Fannie Mae said.
- "The effects of higher interest rates and tightening bank lending standards will eventually result in a contraction," [Fannie Mae economists said Friday](#) in a forecast. While noting that the partisan deadlock over the U.S. debt ceiling and other unusual factors cloud the outlook, they said, "a recession is more a question of when than if."
- During 2023 the annual rate in the core consumer price index, excluding volatile food and energy prices, will probably slow to 4% from 6% last year, while the annual average unemployment rate will probably rise to 3.8% from 3.4% in 2022, Fannie Mae said.

Dive Insight:

Fed policymakers, after pushing up the federal funds rate at the most aggressive pace in four decades, have reined in core CPI from a 6.3% annual rate during the third quarter 2022 to a 5.6% annual rate during the first quarter. Yet they are far short of their 2% target.

"Inflation has been resistant to Fed efforts to drive it down, and we view the risks to our baseline forecast as tilted toward more tightening rather than easing — although, for the moment, the Fed has adopted a wait-and-see approach," Fannie Mae Chief Economist Douglas Duncan said in a statement.

Traders in interest-rate futures expect the Fed's wait-and-see approach will mean it will suspend monetary tightening during its June 13-14 meeting.

investors on Friday set 84% odds that the Fed will hold the federal funds rate at a range between 5% to 5.25% next month after steadily raising it from near zero at consecutive meetings since March 2022, according to [the CME FedWatch Tool](#).

Fed Chair Jerome Powell during a webcast Friday said nothing to puncture expectations of a pause.

"We've come a long way in policy tightening and the stance of policy is restrictive, and we face uncertainty about the lagged effects of our tightening so far, and about the extent of credit tightening from recent banking stresses," [he said in an interview](#).

"Our guidance is limited to identifying the factors we'll be monitoring as we assess the extent to which additional policy firming may be appropriate to return inflation to 2%," Powell said, reading a statement. "That assessment will be an ongoing one as we move ahead, meeting by meeting," he said. "Having come this far, we can afford to look at the data and the evolving outlook to make careful assessments."

Persistent gains in worker pay may prompt the central bank to sustain high borrowing costs long enough to trigger a downturn, Fannie Mae economists said.

"The Fed is likely to maintain tighter policy for longer if wage-related inflationary pressures do not subside," they said.

The central bank "is unlikely to be convinced that inflation is under control until the labor market softens sufficiently, so we think it is probable that policy will remain tight until a contraction is under way," Fannie Mae said.



National Roofing Week 2023 will be held June 4-10 to raise awareness of the significance of roofs to every home and business and share the industry's good deeds.

Organized by NRCA, National Roofing Week traditionally takes place during the first full week of June and promotes the importance of hiring a professional roofing contractor and making informed decisions about maintaining or replacing any roof system.

In celebration of National Roofing Week, NRCA will be sharing its members' stories through its various social media outlets and Professional Roofing magazine. Members throughout the U.S. are encouraged to share their stories of charitable giving, crew and staff appreciation, and signature roofing projects with NRCA.

Want to show support for National Roofing Week? Get your crews National Roofing Week T-shirts! Supplies are limited, so order soon!

For more information, visit the National Roofing Week page on NRCA's website.



OSHA will Hold Safe + Sound Week

The Occupational Safety and Health Administration has announced Aug. 7-13 will be Safe + Sound Week, a nationwide event to celebrate the successes of businesses that have implemented safety and health programs in the workplace.

Successful safety and health programs can proactively identify and manage workplace hazards before they cause injury or illness, improving sustainability and the bottom line. Participating in Safe + Sound Week can help get your program started, energize an existing one or provide a chance to recognize your safety successes.

NRCA encourages members to show their commitment by promoting Safe + Sound Week within their companies and sharing their plans. View more information about Safe + Sound Week.



Results are in from the Latest Market Index Survey for Reroofing

A coalition of industry trade associations representing contractors, consultants and manufacturers in the U.S. and Canada completed its latest Quarterly Market Index Survey for Reroofing for the first quarter of 2023. The survey takes the pulse of the reroofing industry on a quarterly basis and serves as a regular barometer of the industry's business conditions.

Eighty-four percent of survey responses came from contractors and 16% came from roof consultants.

Some topline excerpts of the survey are:

- Forty-one percent of all respondents indicated their customer inquiries increased during the first quarter of 2023 compared with the same quarter in 2022. Twenty percent of respondents reported a decrease in customer inquiries during the same period, and 39% indicated no change in activity.
- Project contracts increased for 48% of respondents and decreased for 23% of respondents; 31% reported no change.
- Eighteen percent of roofing contractors reported no project backlogs, 38% reported project backlogs of one to two months and 23% reported project backlogs of three to four months. Twenty-one percent of roofing contractors reported project backlogs of five months or more.

Additionally, two indices offer insight regarding customer inquiries and project contracts across market segments. The indices are based on a 0 to 100 scale. A score of 50 or higher suggests expansion or optimism; a score below 50 indicates contraction or pessimism.

The customer inquiries index score is 53.8 for the steep-slope reroofing market; 62.5 for the low-slope reroofing market; and 61.2 for the blended low- and steep-slope reroofing market. The project contracts index score is 60 for the steep-slope reroofing market; 61.7 for the low-slope reroofing market; and 64.5 for the blended low- and steep-slope reroofing market.

The complete results of the Quarterly Market Index Survey for Reroofing are available to those who participate in the survey via an online dashboard that enables users to filter results by region and other metrics. Contractors and consultants who want to participate in next quarter's brief survey can sign up for a notification.

The survey is an industry-wide effort spearheaded by a coalition of trade associations, including the Asphalt Roofing Manufacturers Association, Canadian Roofing Contractors Association, Chemical Fabrics & Film Association Inc., EPDM Roofing Association, International Institute of Building Enclosure Consultants, Metal Construction Association, Metal Roofing Alliance, NRCA, National Women in Roofing, Polyisocyanurate Insulation Manufacturers Association, Roof Coatings Manufacturers Association and Single Ply Roofing Industry.



GUEST SPEAKERS



Kyle Thomas
NRCA Chairman

NRCA & INDUSTRY UPDATES

Kyle will be providing CRSMCA members and peers an update of NRCA and industry related news and activities.



Mitch Reaves
Veteran Roofing Professional

THE ROOFING FOOD CHAIN

Mitch will contrast his experiences from CEO to buying & restoring to financial success. He will discuss how distribution assesses a great customer & how contractors do the same for distribution; and the supply chain dynamics.



Ron Shafer
RK HydroVac
2022 DSA Recipient

CRSMCA PAST PRESIDENT ROUNDTABLE Q & A

Ron will be leading a panel of CRSMCA members and peers who have served on the CRSMCA Board. The discussion will be open for all attendees to participate in active membership needs and industry issues.



Julie Hooten
Teague Campbell

AN EMPLOYERS UNDERSTANDING OF THE WORKERS COMP PROCESS

Julie will provide the "big picture" of the workers comp act in N.C., what an employees benefit are, and the process of how a claim is carried forward

Conference Schedule

Thursday, June 22

- 8:00am **Blue Ribbon Fly Fishing**
group meeting at Vanderbilt Wing Atrium, 7th level
- 12:00pm - 5:00pm **CRSMCA Registration Open**
Heritage Prefunction Area
- 2:00pm - 3:00pm **CRSMCA Board of Directors & Associate Group Liaisons Meeting**
Hoover Room
- 4:00pm - 6:00pm **Networking Reception**
Skyline Mountain View Terrace

Friday, June 23

- 8:00am - 12:00pm **CRSMCA Registration Open**
Heritage Prefunction Area
- 8:00am - 9:00am **Continental Breakfast [MEETING ATTENDEES ONLY]**
Heritage A Room
- 8:15am - 8:45am **CRSMCA Associate Group Membership Meeting**
Hoover Room
- 9:00am - 9:15am **Welcome Announcements | Business Session**
Heritage A Room
- 9:20am - 10:15am **Kyle Thomas [Thomas Roofing], NRCA Chairman
NRCA & Industry Updates**
Heritage A Room
- 15 min BREAK**
- 10:30am - 12:00pm **Mitchell Reaves, Veteran & Friend in the Roofing Industry
The Roofing Food Chain: What I Learned During 41 Years in the Roofing Industry**
Heritage A Room
- 4:00pm - 6:00pm **Networking Reception**
Heritage B Room

Saturday, June 24

- 8:00am - 11:00am **CRSMCA Registration Open**
Heritage Prefunction Area
- 8:00am - 9:00am **Continental Breakfast [MEETING ATTENDEES ONLY]**
Heritage A Room
- 8:30am - 10:00am **Past President Roundtable Q & A | Moderated by Ron Shafer [RK HydroVac, Inc.]**
Heritage A Room
- 15 min BREAK**
- 10:15am - 11:45am **Julie Hooten, Teague Campbell
An Employers Understanding of the Workers Comp Process**
Heritage A Room
- 4:00pm - 6:00pm **Honors Recognition Reception**
Vanderbilt Terrace
- 4:45pm **Honors Recognition Ceremony**



Thank you for attending YOUR CRSMCA Annual Meeting/Summer Convention!

What You Need to Know About OSHA's New Initiatives for the Construction Industry

Written by Tom Davies (Partner), Poyner, Spruill,
Published on May 8, 2023

The U.S. Department of Labor's Occupational Safety and Health Administration ([OSHA](#)) has announced new enforcement initiatives for 2023 which will have a direct impact on the construction industry. These new initiatives are primarily directed at preventing trenching and excavation fatalities, and heat-related injuries and illnesses. State Plan states, including North Carolina, are required to adopt the federal policies and procedures to enforce the new initiatives or provide written confirmation of different, but equally effective, policies and enforcement procedures.

OSHA reported that during the first half of 2022, at least 22 workers perished while performing excavation and trenching activities. This number is greater than the trench-related fatalities reported during the entirety of 2021. The new National Emphasis Program on Trenching and Excavation envisions more than 1,000 additional trench inspections by OSHA compliance officers across the U.S. during 2023. OSHA has also begun a new National Emphasis Program on Heat Illnesses and Injuries occurring both indoors and outside. The plan is to increase heat-related inspections by at least 100 percent during 2023. These inspections will typically take place on "heat priority days" when the daytime temperature exceeds 80 degrees, a low threshold for construction companies working in the South.

A key goal of this program is to impress on employers the importance of developing a written prevention plan for heat illnesses. According to OSHA, an acceptable written plan should include provisions for:

- Water and rest breaks;
- shade and cool rest areas; and
- employee training on the signs and symptoms of heat illness.

OSHA has made one change which will somewhat reduce the regulatory burden on construction employers. Companies with 250 or more employees have been required to electronically submit information from OSHA Forms 300 and 301. This electronic submission of injury and illness data will no longer be required. Companies will, however, still have to maintain these records on-site, and to submit Form 300A (annual summary).

[Tom Davis](#), Partner with Poyner Spruill, regularly represents owners, design professionals, and contractors on construction related issues and workplace safety. Based in the Raleigh office, Davis has more than 35 years of experience in the litigation and arbitration of complex cases. He advises clients on legal matters including construction contract negotiation, claims analysis and presentation, and, labor and OSHA disputes. Prior to joining Poyner Spruill, Tom served as Assistant Attorney General of the North Carolina Department of Justice, Highway Division.

[Poyner Spruill LLP](#) is a full-service North Carolina law firm with four offices conveniently located in Raleigh, Charlotte, Rocky Mount, and Southern Pines. The firm traces its history back to 1883, and since then has helped countless individuals, organizations, and industries locally and globally with their legal needs.

Material Prices are Finally Lower than a Year Ago

Written by Sebastian Obando, ConstructionDive
Published on April 13, 2023

Dive Brief:

- Construction input prices, or how much it costs to build a given project, fell for the first time in more than 18 months on a year-over-year basis, but were still 39% higher than February 2020, before the COVID-19 pandemic sent supply chains reeling.
- Both overall construction prices and nonresidential costs were down 0.9% and 0.6%, respectively, compared to March 2022, according to an Associated Builders and Contractors analysis. That's the first time they've dropped annually since August 2020, said Anirban Basu, ABC chief economist.
- Still, costs inched up over the last 30 days. Overall construction and nonresidential input prices rose 0.2% and 0.4% in March, respectively, compared to the previous month. "The good news is that the latest producer price index data, which show broad-based declines in both goods and services prices, suggest that the expected 25 basis point interest rate hike at the Federal Reserve's May meeting will be the last of the cycle," said Basu. "The bad news is that this data indicates greatly diminished pricing power among wholesalers and others."

Dive Insight:

Natural gas and unprocessed energy materials registered the largest percentage drops in March, both falling 21.4% and 11.9% compared to February. Crude petroleum prices also fell 10.2%, according to ABC. However, just five of 19 categories posted price drops in March, while other commodity prices continued to rise. Iron and steel prices jumped 2.9% in March, steel mill products increased 1.2% and concrete products moved up 0.7%, according to the report. Still, inputs to nonresidential construction remain 39.5% higher since February 2020, according to the report.

"While some cheer the notion that rate increases are set to end soon, the Federal Reserve may want to maintain higher interest rates for longer to ensure that inflation has been suppressed," said Basu. "This, along with other signs of slowing economic activity, suggest that the possibility of recession remains elevated, though the economic outlook is increasingly uncertain."

While the overall commodities sectors tracked by ABC posted a slight price increase on a monthly basis, a separate measure dropped, according to the Associated General Contractors of America. The producer price index for inputs to nonresidential construction for final demand ticked down 0.1% from February to March, as measured by AGC. A 2.3% drop in energy inputs pushed that decrease, according to the release.

Nevertheless, many inputs continued to post double-digit cost increases from a year ago. For example, cement prices jumped 17%, concrete products increased 14.5% and paving mixtures and blocks rose 14.1%.

"With materials costs fluctuating so much month to month, contractors remain wary about committing to projects with unpredictable costs and lead times," said Ken Simonson, AGC chief economist. "While the inflation in the broader economy is settling back to earth, construction costs keep hitting updrafts."

Mental Health in the Construction Industry

Written by ConstructionDive, Published April 3, 2023

A staggering statistic, one in five U.S. adults experience mental illness annually. In industries like construction, where safety risks are present daily, taking steps to provide resources and support for individuals to take their mental health seriously is critical. As the industry advances physical safety protocols, mental health and wellness are also becoming a key area of focus for construction professionals.

Mental health in the industry

While further study is underway to assess contributing factors, it is known that the physical demands on a craft professional can take a noticeable toll on individual workers and can heavily impact the mental health of craft workers. According to a 2021 report by the Bureau of Labor Statistics, 94% of workers in the construction and extraction professions have outdoor exposure, and 62.2% of workers in the industry are exposed to heights more than five feet off the ground. If not controlled, the hazards of the workplace can lead to physical injury or loss of coworkers and friends, causing mental health stressors on an individual.

It is believed that mental illness and physical injuries lead to high rates of alcohol and substance abuse in the industry. The Substance Abuse and Mental Health Administration collected data on drug abuse and found that in the construction industry, the rate of substance abuse is almost double the national average. The study found 15% of workers in the construction industry are impacted by substance abuse with 8.6% of people as the national average. This is also true of alcohol abuse where 12% of workers in the industry deal with an alcohol abuse disorder while the national average is 7.5%.

The impact of mental illness compounded with substance abuse leads to a high rate of suicides in the industry, specifically among men. A CDC report using the 2016 National Violent Death Reporting System (NVDRS) to analyze suicides across industries found suicides among males have one of the highest rates in the construction and extraction occupations.

Mental illness does not just impact the individual, it impacts everyone around that person, family, friends, coworkers and anyone else who interacts with that individual daily. The long-term impact can have serious implications for those relationships.

Recognizing and normalizing mental health

Normalizing conversations on mental health in the industry can lead to destigmatizing those workers affected. The construction industry, in many ways, is still stuck with the mindset that talking about stress, anxiety and other mental health issues is a weakness. This mindset aligns with the idea that workers should be tough and able to deal with those feelings without help. This mindset is detrimental to the health and wellness of everyone on a job site. When this conversation shifts to recognizing and supporting individuals suffering from mental illness, the industry starts to become a safer environment for everyone.

Mental health matters



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"We have to keep reminding everyone that mental health issues in the industry are really common. The proportion of individuals impacted because of factors outside of the job site, incidents on the job site, elements of the job site, etc. compounded by substance abuse is significant," said Kathi Dobson, Safety Director, Alberici Constructors.

How can companies support mental wellness?

Currently, many organizations offer support through EAPs, but there is more that can and should be done. Leaders can prioritize creating a safe space and a culture of trust and leading by example by prioritizing their own mental health.

"Everyone's mental health is highly unique to themselves with no singular journey. People cope in different ways. It's important for organizations to have space for every individual. You can't force someone to take care of mental health. You can help support them," Laurie Sharp-Page, Founder & CEO of Flourish Psychotherapy and author of Conscious Coping.

According to Sharp-Page, companies can support their employees by creating a framework for how the team talks about mental health and creating clear policies on mental health days within their organization. The framework can include giving employees the space to have their feelings and to cope with feelings by providing resources and support. Policies should, at a minimum, acknowledge that prioritizing mental health is encouraged.

Mental health resources

In the last few years, the Construction Safety Week team has put a strong focus on improving mental health and providing resources to companies and individuals. The annual themes for the campaign have centered on the importance of both physical and mental wellness in the workplace, how to create a safe and supportive environment for our workers and opening up conversations that help normalize the topic of mental health within the industry. In 2022, the executive team created a free, downloadable [mental wellness field guide](#) offering resources to support craft workers in the industry.

Crisis Resources

- Suicide & Crisis Lifeline: (call, chat or text) 988
- Crisis Text Line: Text HOME to 741741 (to connect with a Crisis Counselor)
- Veterans Crisis Line: (call, chat or text) 1-800-273-8255, Press 1 or www.veteranscrisisline.net
- Crisis Service Canada: 1-833-456-4566

For more resources on mental health, visit www.constructionsafetyweek.com/safety-culture/mental-health-resources

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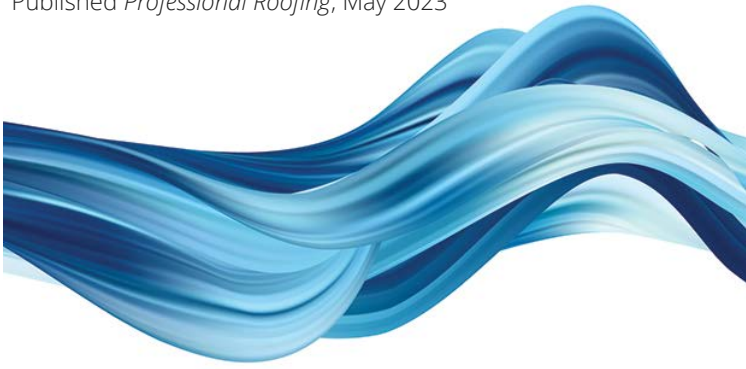


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A Revised Approach to Wind Calculations

Written by Thomas L. Smith, AIA, RRC, F.SEI

Published *Professional Roofing*, May 2023



The 2022 edition of ASCE 7 includes several roofing-related changes

The 2022 edition of ASCE 7, "Minimum Design Loads and Associated Criteria for Buildings and Other Structures," became available in December 2021 and replaces the 2016 edition. ASCE 7, issued by the American Society of Civil Engineers, provides information that allows designers to determine various types of loads and load combinations on buildings. The 2022 edition will be referenced in the 2024 editions of the International Building Code® and International Residential Code®, as well as the 2023 edition of the Florida Building Code.

The new edition's wind load provisions have not changed dramatically except for the inclusion of a new chapter addressing tornado loads. For those familiar with calculating loads in accordance with the 2016 edition, other than new tornado provisions, the transition to the 2022 edition will be easy. Changes that were made in the 2010 and 2016 editions laid an important foundation for users of the 2022 edition. For those unfamiliar with the 2010 and/or 2016 changes, see "Mapping the 2010 wind changes," August 2010 issue, and "How do I load thee?" October 2017 issue.

The primary 2022 changes that pertain to the roofing industry include:

- Relatively minor revisions to the wind speed maps for the U.S. mainland
- New wind speeds for Puerto Rico, U.S. Virgin Islands and Northern Mariana Islands
- Site-specific wind speeds for select special wind regions
- Wind speed-up at abrupt changes in topography
- Minor revisions to the velocity pressure coefficients (Table 26.10-1)
- Relocation of the wind directionality factor K_d
- Clarification of the wind-borne debris region
- Commentary on internal pressure coefficients
- Rooftop solar panel arrays
- Deletion of simplified tables in Chapter 30
- Zone changes for low-slope stepped roofs
- Gable and hip roofs
- Attached canopies on buildings higher than 60 feet
- Roof pavers
- Tornado loads

Following is an overview of these additions and changes. I do not address changes that only pertain to primary structural elements such as beams, columns, shear walls and diaphragms that provide overall support and stability for buildings.

Wind speeds

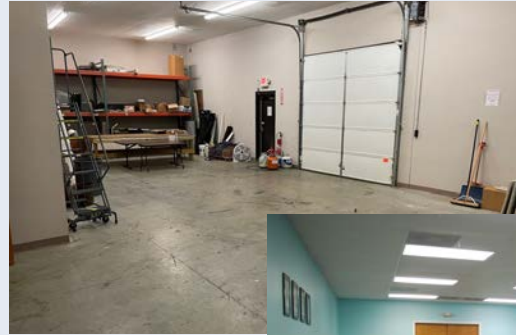
The basic (design) wind speeds for hurricane-prone regions are derived from modeling rather than historical records because of the infrequency of hurricanes. An updated hurricane simulation model was used to develop the wind speeds for the 2022 edition, which resulted in modest changes to the wind speed contours along the Atlantic Ocean and Gulf of Mexico. Speeds increased in parts of Texas and the Florida Panhandle. Speeds decreased in parts of Louisiana, along the Mississippi and Alabama coastlines, and in parts of the Northeast. The difference between the 2016 and 2022 basic wind speed at a specific location can be found quickly using the ASCE 7 Hazard Tool. Wind speeds in America Samoa, Guam and Hawaii are unchanged. For the first time, ASCE 7 includes speed for the Northern Mariana Islands, which matches that of nearby Guam.

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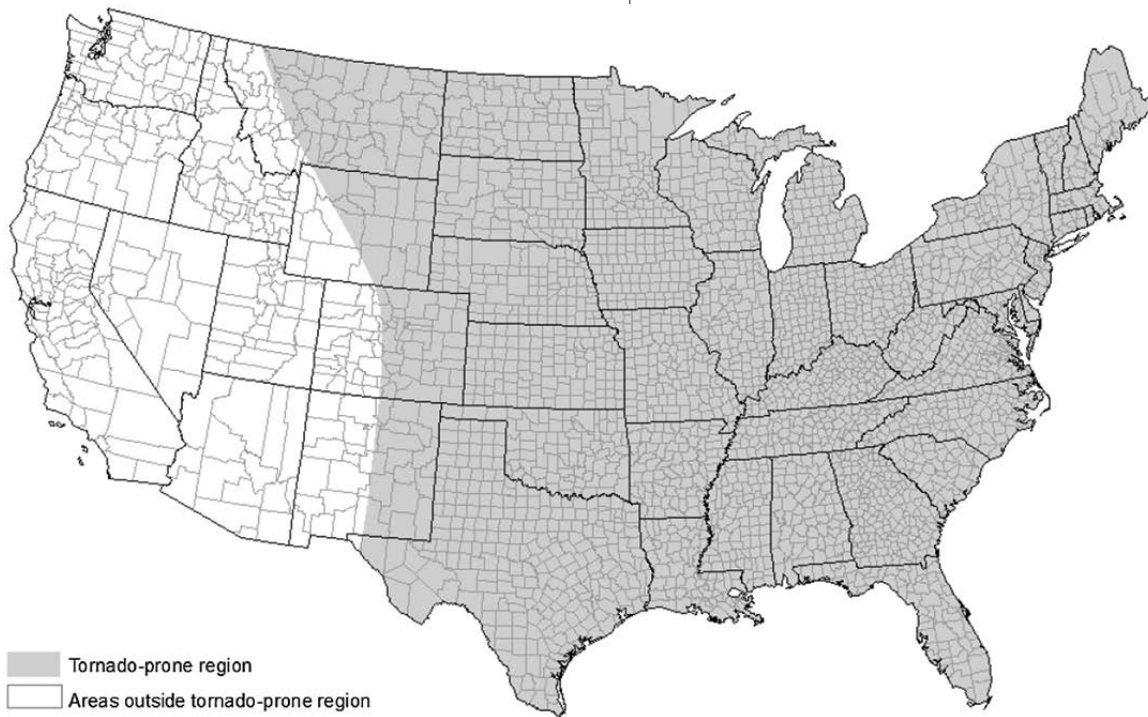
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The Hawaii maps are not included in the print and online version of the 2022 edition; instead, the ASCE 7 Hazard Tool should be used to obtain Hawaii's wind speeds. As with the 2016 edition, Hawaii's speeds are microzoned "effective" wind speeds that include the wind speed-up effect of topography. Inclusion of topographic effects will simplify load calculations, particularly for sites with complex topography. However, designers still should examine local site conditions of finer topographic scale, such as ocean promontories and local escarpments.

The 2022 edition includes new microzoned wind speed maps for the U.S. Virgin Islands and Puerto Rico. As with Hawaii, these maps include the wind speed-up effect of topography. However, these maps use a grid with a resolution of about 100 m, so most local site conditions won't need examination by a designer. The ASCE 7 Hazard Tool also must be used to obtain these speeds. These new maps were developed after Hurricanes Irma and Maria struck these islands in 2017.

Outside the hurricane-prone regions, there are a few minor changes to the mainland wind speed contours. Alaska's contours are unchanged. The ASCE 7 Hazard Tool indicates special wind regions, which are mountainous areas. Site-specific values for the special wind regions in northern Colorado and Kern County, Calif., are included in the hazard tool. If site-specific values at other mainland areas are not provided, the authority having jurisdiction should be consulted for the basic wind speed.



Miscellaneous changes

A variety of other 2022 changes affect wind loads on roof systems and rooftop equipment. Most of the following have relatively minor effects on the roofing industry:

- **Wind speed-up at abrupt changes in topography:** Changes were made to Section 26.8 and Figure 26.8-1.
- **Velocity pressure exposure coefficients (Kz), Table 26.10-1:** Kz accounts for the exposure (B, C or D) and building height. Several of the exposure B and C coefficients have changed because of revisions to the height of the atmospheric boundary layer (also known as gradient height). Further background information regarding these changes is provided in the standard's Commentary section.
- **Velocity pressure calculation, equation 26.10-1:** In earlier editions, the wind directionality factor (Kd) was included in the velocity pressure equation. In the 2022 edition, Kd was removed from that equation and placed in the individual wind pressure equations and force equations. So for rooftop equipment and rooftop solar panels, Kd is applied in Chapter 29, and for roof systems it is applied in Chapter 30.

- **Wind-borne debris regions:** These regions occur in portions of hurricane-prone regions. There are two criteria for defining the location of the wind-borne debris region, and changes only were made to the first criterion, which pertains to buildings within 1 mile of bodies of water. In previous editions, the first criterion was ambiguous, particularly in locations with complex shorelines. The first criterion has been clarified to remove the ambiguity. Incidentally, the only requirements related to wind-borne debris pertain to glazing. For new buildings, the wind-borne region does not affect loads on roof systems. However, the wind-borne region may affect roof system loads on existing buildings.
- **Commentary on internal pressure coefficients:** Section 26.12 provides criteria for determining internal pressure coefficients as a function of a building being classified as open, partially enclosed or partially open. The 2022 commentary has substantially more guidance to assist designers in selecting the enclosure classification and corresponding internal pressure coefficients. New information is given regarding breached glazing outside and within wind-borne debris regions; the influence of compartmentalization on the distribution of increased internal pressure following a breach of the building enclosure; lobby entry vestibules; and remedial work on existing buildings located in wind-borne debris regions.
- **Rooftop solar panel arrays:** Changes were made in Section 29.4.4 regarding the array edge factor. Also, the pressure equalization factor in Figure 29.4-8 was revised to account for different gap widths between panels.

- **Deletion of simplified tables:** Chapter 30 pertains to components and cladding loads. The 2016 edition had simplified methods to determine wind pressures. With the simplified methods, pressures were determined from tables in lieu of calculations. These methods were deleted from the 2022 edition.
- **Zone changes for low-slope stepped roofs:** The field, perimeter and corner zone layout shown in Figure 30.3-3 substantially changed in the 2022 edition because the figure was not updated in 2016 to reflect the low-slope zone changes made that year. For 2022, there are no changes to the zone layout or the pressure coefficients for roofs with slopes up to 1½-in-12.
- **Gable and hip roofs:** For slopes greater than 1½-in-12, the zones have been simplified and the pressure coefficients have been reduced for some zones. The 2016 edition had a figure for hip roofs with slopes of 27 to 45 degrees. That figure was replaced with one that only has a slope of 45 degrees. The new figure notes linear interpolation is required to determine pressure coefficients for slopes greater than 27 degrees and less than 45 degrees. This will result in higher values in zones 2 and 3 as slopes decrease. In the 2016 edition, the figures included roof overhangs.

For 2022, overhang pressure coefficients are addressed in Section 30.7. Some of the gable and hip figures in the 2016 edition provided coefficients for effective wind areas less than 10 square feet. In the 2022 edition, all the figures truncate the effective wind area at 10 square feet. The Commentary advises practitioner may need to determine the approximate pressure coefficient for roof systems that have effective wind areas less than 10 square feet (such as asphalt shingles and tile). The Commentary provides guidance for doing so.

- **Other roof shapes:** Neither the pressure coefficients nor zones changed for multispans, gable, monoslope, sawtooth and dome roofs.
- **Buildings with attached canopies:** The 2016 edition only provided pressure coefficients for canopies on buildings up to 60 feet high. Figure 30.9-2A was added in 2022 to provide coefficients for canopies on buildings higher than 60 feet.
- **Roof pavers:** Section 30.12, which is new, provides an equation for calculating uplift pressures on roof pavers. The Commentary references the 2013 edition of ANSI/SPRI RP-4, "Wind Design Standard For Ballasted Single Ply Roofing Systems," for guidance on roof heights up to 150 feet. The Commentary of the 2019 edition of ANSI/SPRI RP-4 provides guidance for heights greater than 150 feet.

Tornado loads

The new Chapter 32 only applies to Risk Category III and IV buildings in the tornado-prone region. Category III buildings include schools and theaters. Category IV buildings include hospitals, police stations and fire stations.

For sites located in the tornado-prone region, the ASCE 7 Hazard Tool provides tornado speeds for use with the new load criteria. The tornado return periods for each risk category are the same as the mean recurrence intervals for straight-line winds given in Chapter 26. Design tornado speeds approximately correspond to tornado intensities of EF0-EF2 on the Enhanced Fujita Scale.

Design tornado speeds also are a function of a building's plan size and shape. A larger building has a greater design tornado speed than a smaller facility at the same geographic location. Not all Category III and IV buildings located in the tornado-prone region are required to be designed for tornadoes.

Registered design professionals must determine whether tornado loads are required. Depending on tornado speed and the ratio of it to the basic wind speed given in Chapter 26, tornado loads may or may not control over wind loads. A flow chart in Chapter 32 shows the process for determining when design for tornado loads is required. By using the chart, a designer can quickly determine when design for tornadoes is not required.

The procedures and equations for determining tornado loads are similar to the ones for determining wind loads. However, parameters used in tornado design are modified to account for unique characteristics of tornadoes and their interaction with the considered building.

The Federal Emergency Management Agency and National Institute of Standards and Technology have published a design guide regarding the new tornado load requirements. The guide is intended to help design professionals and building officials determine when a building or other structure is required to be designed for tornadoes and how to calculate design tornado loads. The guide includes a design example to illustrate application of the new tornado criteria in Chapter 32.

It is important to note neither Chapter 32 nor its Commentary address existing buildings. In my opinion, when reroofing a Category IV building in the tornado-prone region is planned, it would be prudent for the building owner to consider having a design professional design the new roof system and rooftop equipment to meet the Chapter 32 loads. It also would be prudent to consider strengthening the roof deck attachment to meet tornado loads.

The only requirement regarding wind-borne debris pertains to glazing. However, the Commentary notes wind-borne debris can penetrate other portions of a building enclosure and create a pathway for rain to enter. The Commentary references a FEMA publication for design guidance to minimize debris and/or rain penetration through roof and wall assemblies.

NIST published case studies comparing tornado and wind loads and cost implications of tornado loads on several building types (elementary school, high school, fire station, hospital) in nine cities in the tornado-prone region. The study includes discussion of potential effects on roof systems. In some cases, the tornado loads governed; in others, the increased load did not affect the number of required insulation or membrane fasteners or spacing of foam ribbon adhesive. Sometimes, the tornado loads require additional foam ribbon adhesive and/or additional fasteners. In no case did the tornado designs require the use of a different roof system or roof system components.

Get the standard

A subscription to an online version of the publication is available at [asce7.online](https://www.asce7.com) and provides a side-by-side display of the standard's provisions and explanatory information in the Commentary. The online version also offers real-time updates when supplements or errata are issued.

In the print version, vertical lines in the margins indicate changes from 2016. However, the online version explicitly shows the changes, so it is much easier to see what changes were made. Neither the printed nor online version show the Commentary changes.

Did you know?

The Commentary is not part of the standard, but it is included with it. The Commentary consists of explanatory and supplementary material intended to assist with applying the standard's requirements or providing a basis for the requirements.

A note on glazing

The new Commentary addressing work on existing buildings located in wind-borne debris regions recommends if the existing glazing is not protected, it should be replaced with impact-resistant glazing or retrofitted with shutters in accordance with Section 26.12.3.

If existing noncompliant glazing is to remain and new building enclosure elements (such as a roof system) are going to be installed, it should be assumed the glazing can be breached, and load calculations for the new elements should include confirmation of building enclosure (enclosed vs. partially enclosed) to determine the correct internal pressure coefficient. The Commentary also recommends considering the uplift resistance of the existing roof deck and deck support structure if a roof system is replaced.

Did you know?

NRCA's Roof Wind Designer is an online tool intended to provide users with an easy-to-use means for determining roof systems' design wind loads for many commonly encountered building types. It can be used to determine loads based on the 2005, 2010 and 2016 editions. When it is updated for the 2022 edition, use of the tool will be a convenient alternative to performing manual calculations. To access the tool, go to roofwinddesigner.nrca.net.

THOMAS L. SMITH, AIA, RRC, F.SEI, is president of TlSmith Consulting Inc., Rockton, Ill., and a member of the ASCE 7 Task Committee on Wind Loads.

REVIEW ON CONTRACTS [PART 2]

Key Provisions for Every Subcontractor Agreement

Written by Trent Cotney, Adams and Reese, LLP

When prime contractors and subcontractors do business together, success is reliant upon clear, effective communication. And that communication starts with the contract. Both parties must be aware of their responsibilities and liabilities, and those details lie in the contract provisions. What follows are important stipulations to consider.

Scope of Work

When beginning a project, prime contractors must outline the scope of work for the subcontractors. In most cases, prime contractors tend to make the scope broader, while the subcontractors prefer it to be more specific. It is essential that the scope matches the work described in the bid proposal. If there are any exclusions, they must be noted. Without a well-defined scope, prime contractors may find that the work falls short of their expectations. Unfortunately, most disputes on construction projects arise out of a poorly defined scope of work.

Flow-Through

The flow-through clause allows the prime contractor to pass along their responsibilities from the owners to the subcontractors. Although such a clause is necessary from the prime contractors' point of view, the subcontractors may feel as though they are agreeing to something they have never read. So it may be important to provide the subcontractor with a copy of the agreement between the owner and the prime contractor.

Indemnification

An indemnification clause requires one party to assume responsibility for damage or loss caused by the other party. The party agreeing to such responsibility is the indemnitor, and it holds the other party harmless from damage or loss. These clauses are often subject to local and state laws, so contractors and subcontractors should carefully review them. In most cases, the prime contractor should not assume responsibility beyond its and the subcontractor's negligence. And subcontractors will likely want to avoid assuming broad form indemnity with prime contractors. It is also essential that any party agreeing to indemnity is insured at a level high enough to cover any resulting loss or damage.

Liquidated Damages

Most contracts provide for liquidated damages when there are delays on a project. They usually require a prime contractor to pay specific amounts based on each day of the delay. With a flow-through clause, a subcontractor can also be held responsible. If the clause is well written, it can protect the prime contractor from unexpected expenses. And both parties should ensure that the liquidated damages clause limits their exposure.

No Damages for Delay

In most cases, if an owner causes a delay on a construction project, the prime contractor and subcontractor can recover damages. However, when a no-damages-for-delay clause is included in the contract, the prime contractor cannot recover damages, and per a flow-through clause, neither can the subcontractor. Instead, they are usually given more time to complete the project. Both prime contractors and subcontractors may object to the no-damages-for-delay clause since any scheduling issues may take time away from future projects they have planned.

Termination for Convenience

This clause allows an owner or prime contractor to cancel a contract or subcontract without cause and for any reason. Such a termination can have a substantial financial impact on both contractors and subcontractors. Therefore, they should try to include language that guarantees they will be paid for work completed prior to the termination. Subcontractors may also request that a contractor is allowed to terminate for convenience only if the owner has done so.

Termination for Default

This type of termination usually occurs downstream when an owner or prime contractor cancels a contract due to breach. Causes include a failure to perform, follow laws and ordinances, and fix subpar work. Both contractors and subcontractors should ensure that the contract allows for sufficient notice and opportunity to cure before such termination. Otherwise, they could face serious financial implications. They could also be held responsible for consequential damages, such as lost rent, lost profits, loss of use, and damage to reputation.

Dispute Resolution

Quite often, if one party files a claim against another, the matter ends up in court. However, many contracts include an arbitration provision. This stipulation requires that all parties agree to participate in arbitration to resolve the dispute. While the arbitration process is much faster than litigation, it can also be more expensive. In addition, all parties must understand that the arbiter's decision is final and appeal of that decision is difficult. Therefore, it is critical that both prime contractors and subcontractors carefully review any language regarding disputes and arbitration. The contract should expressly state which parties are responsible for covering expenses.

Final Thoughts

When prime contractors and subcontractors enter an agreement, it is essential that they understand one another's expectations. All those details should be outlined in the contract.

If you are entering such an agreement and are unsure what provisions should be included in your contract, do not hesitate to consult legal counsel. An experienced construction attorney can review your contract and advise you about protecting the contractor-subcontractor working relationship.



The Dotted Line: Reviewing Construction Contracts with Recession in Mind

Written by Joe Bousquin, ConstructionDive, Published on February 28, 2023

Contractors need to know where they stand on a project long before times get tough.

Those preparations include reviewing contracts with a potential recession in mind. Critical to the process is knowing what provisions contractors and subs are entitled to, as well as the responsibilities they have to the party on the other side, before a true economic contraction sets in.

"By the time a recession hits, it's too late," Singer said.

The wind before the rain

Singer said that in his own practice, he's seen signs that "winter" may already be here.

"To me, the biggest leading indicator in construction is a change in the nature and frequency of claims, which we've been seeing," said Singer, a partner at Ice Miller in Chicago. "It's like the wind that blows up before it's going to rain. You can sort of smell it coming."

Those claims have come in the form of what Singer calls "late-in-the-game change orders," which have picked up as projects that kicked off early in the pandemic now approach their final stages.

"What I'm seeing now is contractors getting significantly into a job and realizing they're losing money, and they try to convert that to a change order," Singer said.

"It's the contractors that are financially on the margins that are leading those changes. We've got a bunch of them."

Attorney Alex Baghdassarian, a partner at Hanson Bridgett in Los Angeles, has noticed a similar uptick in claims, and a new unwillingness among project owners to accept them as interest rates have increased and capital markets have gotten tighter.

"Previously, when there were changes or delays on the project, oftentimes owners would be sympathetic and try to resolve the dispute," Baghdassarian told Construction Dive. "If the contractor was asking for \$100,000 in change orders, they may have negotiated it down to \$80,000 or \$70,000. That is not happening as much."

Instead, as owners and developers encounter a more challenging funding environment themselves, Baghdassarian said, they're saying no more often.

"They don't want contractors to see them as an open checkbook," Baghdassarian said. "Unless the contractor can convince them these costs are actually driven by something the owner or design team did, owners are telling contractors they're out of luck, and that they have to absorb these costs."

Attorney Adam Richards, a partner at Berger Singerman in Miami, says even though construction activity is still robust in Florida, just the possibility of economic slowing has changed the tenor of recent negotiations.

"We're not quite sure what's on the horizon, but regardless, the impact is that everyone starts tightening up," Richards said. "Everyone starts thinking about risk aversion."

Seeking shelter before the storm

Against that backdrop, and as financing becomes tighter amid higher interest rates, contractors should protect themselves by checking up on the financial health of any projects they're on today. They can easily do so, in most cases, by making a request via the financial assurance clause contained in most standard contracts.

"It allows a contractor to ask the owner for reassurance of its capability to continue funding the project," Baghdassarian said. "The contractor should be entitled to confirm whether the loan is still in place, or if the owner-developer is running into any sort of financial issues."

Those answers should come as a normal course of doing business. If they don't, that could be a signal tougher times have already arrived.

"If the owner is nonresponsive, that's a pretty good indication the situation may be more serious than anticipated," Baghdassarian said.

Getting in line

Of course, many contractors and subs get wind of problems on a job in another way: when the checks stop coming, even though they're still doing work.

Before that happens, contractors need to make sure they've already issued preliminary notice to owners of their lien rights to a project, should conditions worsen. That notice not only alerts owners that the property could be used as collateral against unpaid debts if a project hits a roadblock, it also establishes the contractor's place in line as to who will get paid first.

"The key in terms of enforcement of liens is who comes first in time," Baghdassarian said. That means if a contractor gave proper preliminary notice to an owner prior to funding being secured for the project, that contractor would come before even a bank or other lender in terms of getting paid. If you didn't serve a preliminary notice earlier, do so now so that "the value you add going forward is protected," Baghdassarian said.

Of course, getting to the point where liens are necessary is never a great outcome. Richards advises to make sure you regularly check in on the health of the job before then.

"With every single payment application, you have an opportunity to reconcile the account, and do a deep dive on the project," Richards said. "Because the outstanding balance can get too large too quickly if you're not properly tracking it from the get-go."

Before sending paper, talk it out

When the wheels do come off a project, contractors are often in a precarious position between their subs and the owner they're trying to get money from (and preserve a relationship with).

In that situation, attorneys universally recommend transparency and open dialogue to keep both owners and subs in the loop, even if a lien is unavoidable.

The advertisement for AssuredPartners features a background image of several hands clasped together in a circle, symbolizing support and partnership. The company logo, a stylized 'A' with green and blue horizontal lines, is in the top left. The main headline reads "Solutions - Not Just Insurance!". Below this, five circular icons are arranged in two rows, each with a corresponding label: a house icon for "Personal Insurance", a heart with a pulse line for "Employee Benefits", a skyscraper icon for "Commercial Insurance", a bar chart with an upward arrow for "Surety", and a shield icon for "Risk Management". At the bottom, contact information for Cindy Shumpert is provided, including a phone number and email address, along with the text "Proudly Supporting CRSMCA".

AssuredPartners

Solutions - Not Just Insurance!

Personal Insurance Employee Benefits Commercial Insurance

Surety Risk Management

Cindy Shumpert
P 803.732.6331
Cindy.Shumpert@AssuredPartners.com

Proudly Supporting
CRSMCA

"Sending something in writing that surprises people is never a good idea," Baghdassarian said. "Before sending a notice, speak to your owner contact and let them know the situation you're facing with your own subcontractors. If you're dealing with people who are honest, that's usually well received."

Keep in mind, should you need to file a lien to get paid, doing so is only as good as the owner's solvency.

"If the property is worth half as much as there are lien claims, you can expect that even if you win, even if you did everything right, you're not going to collect everything you're owed," Singer said.

That, ultimately, is the difference between boom times and bust when it comes to construction

"When times are flush, money covers over a lot of problems," Singer said. "When times are bad and the owner has money concerns, they can't fund that spread any longer. That will grind a project to a halt."

The Details of Defects

Written by Stephen M. Phillips, *Professional Roofing*, September 2019

You made a mistake installing a roof system. What is your liability?

If you're like most roofing contractors, you inevitably have received a complaint from an owner who was not satisfied with your company's performance and claims your work was defective in some manner. Unfortunately, at some point in your roofing career, your company probably will be sued based on an alleged deficiency in your company's work.

When that lawsuit is filed, you will need to evaluate the allegations and know the extent of your potential legal liability. As any contractor who has gone through the litigation process will tell you, it is long and expensive, and the outcome is unpredictable.

You almost always will be far better off economically trying to resolve a complaint or dispute by responding promptly and directly, correcting a disputed problem and negotiating a settlement agreement compared with following a formal dispute process to its conclusion.

What are you liable for?

The damages that can be recovered resulting from a construction defect generally follow the same principles applicable to any breach of contract. In a lawsuit by a building owner against a contractor for a construction defect, the owner is entitled to compensatory damages that will put the owner in the same position as if the work or design had not been defective.

In most construction defect cases, the measure of damages whether resulting from defective workmanship, defective materials or defective design is the cost of repair. As long as the cost of repair is not clearly disproportionate to the loss in value of the building caused by the defect, the owner usually is entitled to the reasonable cost of remedying the defect.

If the cost of remedying the deficiency is clearly disproportionate to the loss in value, the economic waste rule can be applied. In this case, the owner's damages are measured by the difference in value between the building as constructed with the deficiency versus the value of the building had it been constructed in accordance with the contract. If the construction defect cannot be remedied without great expense or substantial damage to the rest of the building such that the cost of remedying the defect would far exceed the value of the improvement, the diminution in value rule is applied to measure the damages the owner is entitled to recover.

Here's an example: A contractor builds a house that was not according to the precise dimensions shown on the contract drawings, and the house would have to be substantially rebuilt to comply with the contract. A contractor who contends the cost of repair is disproportionate to the loss in value has to prove damages should be measured based on diminution in value rather than cost of repair.

If a claim against a contractor arises during construction and is for failure to complete the contract, the normal measure of damages is the reasonable cost of completion in accordance with the contract.

Opportunity to cure

Most construction contracts include a provision granting the contractor an opportunity to correct a deficiency. If there is no such contract provision, you should add a provision to that effect. Many states have enacted statutes, most commonly applicable only to residential construction, that call for an owner to notify the contractor of an alleged construction defect and give the contractor an opportunity to repair the alleged defect before proceeding with a lawsuit.

Even if there is not a contract provision or statute that expressly permits you to repair a deficiency, you should, when learning of an alleged deficiency, investigate and offer to make repairs if there is a deficiency in the work. The cost to repair

the deficiency will surely be far less than if the owner retains another contractor and then pursues recovery of damages from you.

In the 2016 case *Magnum Construction Management Corporation v. The City of Miami Beach*, the Florida Third District Court of Appeal reversed a trial court's \$1,290,037 award to the City of Miami Beach on two grounds, including failure by the owner to provide the general contractor, Magnum Construction Management, an opportunity to perform the remedial work.

Pursuant to a 2007 contract, Magnum Construction Management was responsible for landscaping and installing new turf and a new children's playground at South Point Park. The redeveloped park was substantially completed in 2009. One of the city's claims in its \$3 million lawsuit was the contractor failed to install the playground in accordance with contractually required safety requirements.

The contract between the city and Magnum Construction Management included a common provision stating if any of the work for which Magnum Construction Management was responsible was found to be defective or not in accordance with the contract documents within one year after substantial completion or a longer period as provided in the contract or warranty, the contractor, after receipt of written notice from the city, would promptly correct any defective or nonconforming work without cost to the city.

Although Magnum Construction Management had been notified of landscaping problems in 2009, including deterioration of sod in certain areas of the park, the city unilaterally audited the playground in 2010 and, without giving notice to Magnum Construction Management, initiated litigation to recover the costs of removing, redesigning and replacing the playground in its entirety.

Based on the contract provision requiring the contractor to correct defective work after written notice from the city, the Florida Third District Court of Appeal ruled that because the contractor was not afforded an opportunity to correct the playground defects before the city awarded a contract to another contractor, the city could not recover damages relating to the playground. The court noted many of the playground defects were minor and could have been easily corrected.

In addition to failing to provide the contractor with an opportunity to make repairs, the Florida Third District Court of Appeal reversed the trial court's \$1.29 million award to the City of Miami Beach on the grounds that the damages were speculative and ordered a new trial on damages. The city presented evidence of the total costs expended to redo the landscaping at the park. However, the city's remediation plan improved upon and differed significantly from the original design and specifications. In the absence of evidence indicating the value of the betterments in the city's remediation plan, the appellate court said the trial court's damage assessment was speculative.

The party claiming damages bears the burden of proving its losses with reasonable certainty by a preponderance of the evidence. Although damages do not need to be proved with mathematical precision or absolute certainty, damages must be reasonable and in a manner sufficient to allow the fact finder (such as a jury, trial court judge or arbitrator) to estimate damages with reasonable certainty. Trial courts generally have broad discretion when determining damages, and fact finders' decisions on damages usually are upheld on appeal unless clearly erroneous or lacking an evidentiary basis.

Defense of betterment

You always should consider two distinct but sometimes overlapping concepts when evaluating the reasonableness of damages an owner seeks. These are the concepts of "betterment" and "mitigation of damages." They are not unique to construction law.

Consistent with the legal principle that the object of contract damages is to place an owner in the same position he or she would have been had the contractor properly performed the contract, the owner is not entitled to more than what was required under the contract. The owner is not entitled to be placed in a better position because of the breach.

If the damages the owner seeks to recover include something more than was required in the contract, there is “betterment,” and the damages the owner is entitled to recover should be reduced to the extent of the improvement or enhancement above the original contract.

For example, an owner who contracted for a 45-mil-thick TPO membrane roof system over one layer of 1-inch-thick insulation obviously cannot recover the full cost of installing a replacement 60-mil-thick TPO membrane roof system over two layers of 2 1/2-inch-thick tapered insulation with a cover board. The owner would be unjustly enriched to the extent the replacement roof system was an enhancement over the original.

Betterment can take forms other than an upgrade. Suppose an owner originally contracted for a roof system that was warranted by the membrane manufacturer for 10 years. After eight years, the roof began to leak; in year nine, the roof leaked profusely and could not be repaired effectively; and in year 10, the roof system was replaced with a new, similar roof that had a new 10- or 15-year manufacturer’s warranty. In this case, the owner’s recovery should be reduced to take into account the years of satisfactory service and additional years of warranty coverage.

You bear the burden of proof to show with reasonable certainty the amount of claimed damages that should properly be attributed to betterment. You cannot claim betterment and expect the owner’s damages to be reduced.

In *Nichols Construction Corp. v. Virginia Machine Tool Company, LLC*, decided in 2008 by the Supreme Court of Virginia, the owner sought damages for the cost of removing and replacing a defective pre-engineered metal roof system.

The original contract price for the roof was \$140,000. The owner bought the land and building on which the roof was installed for between \$180,000 and \$200,000. The trial court awarded damages of \$450,842 to the owner based on the reroofing estimate provided by the owner’s expert witness. The trial court found the roof system installed by the defendant contractor had to be removed and replaced because repair was not a viable option. The Supreme Court of Virginia upheld the trial court’s finding because the roofing contractor failed to offer evidence either rebutting the cost estimate of the owner’s expert or showing the case was an example of unreasonable economic waste. The contractor’s failure to present expert testimony to rebut the expert testimony of the owner’s expert was fatal.

An issue that arises in cases against architects and engineers is when an architect or engineer omits an item or specifies an item that is not adequate. Is the design professional liable for the costs associated with providing the missing or inadequate items?

Consider the reasoning of the Florida Court of Appeals in its 1989 decision in *Lochrane Engineering, Inc. v. Willingham Realgrowth Investment Fund, Ltd.* The court posed the example of a professional engineer issuing plans calling for a 1,000-square-foot drain field and a contract being awarded based on those plans. Later, it is determined a 1,200-square-foot drain field was necessary. Assuming the engineer’s error constitutes professional negligence, is the engineer liable for the cost of installing the additional 200 square feet of drain field? If the engineer had originally specified 1,200 square feet, the owner would be paying for the entire 1,200 square feet, so the owner receiving an additional 200 square feet of drainage field is an enhancement. If the owner sustained damages resulting from the inadequate drain field or the cost of adding the 200 square feet was greater than it would have been had the original plans called for 1,200 square feet, the engineer would be liable for those damages. But the owner receiving the additional 200 square feet constitutes betterment because it was not included in the owner’s original costs.

However, replacing a roof with a different roof system does not necessarily mean there is betterment and the owner’s damages should be reduced. A case-by-case factual analysis is needed. If an owner demonstrates roof system replacement is necessary, reasonable and cost-effective, even if it is not the same roof system as provided in the contract, the owner will be entitled to recovery.

In the 2009 case *O & G Industries v. All Phase Enterprises*, the Connecticut

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If the damages the owner seeks to recover include something more than was required in the contract, there is “betterment,” and the damages the owner is entitled to recover should be reduced to the extent of the improvement or enhancement above the original contract.

Appellate Court affirmed the ruling of the trial court that Hotchkiss School, a college preparatory school in Lakeville, Conn., could recover the cost of installing an EPDM roof system over a metal roof system that failed over the school ice arena. The contractor who installed the metal roof system argued it could have been repaired to meet the bid specifications for \$38,525. The cost of the EPDM reroofing was \$152,771.50. The contractor argued betterment. There was expert evidence from the owner’s roof consultant the roof leaked so severely it was irreparable, and an EPDM roof system was a reasonable way to remedy the problem and have the ice arena ready in time for the upcoming hockey season. The Connecticut Appellate Court agreed there was evidence repairs could have been made for \$38,525 but went on to state the trial court was free to credit or discredit this evidence. A review of the record indicated there was evidentiary support for the trial court’s findings and conclusions based on the testimony of the owner’s expert witness.

Mitigation of damages

Another legal principle a contractor should consider when evaluating damages is the duty to mitigate damages, also known as the doctrine of avoidable consequences. The duty to mitigate damages is an affirmative defense a contractor can make to reduce the owner’s damages if an owner fails to take reasonable steps to reduce its damages.

For example, a contractor could make a strong case for mitigation of an owner’s damages if the owner notices leaks that are damaging insulation and takes no action.

If the owner acted reasonably and notified the contractor, the contractor could repair the problem and prevent a larger area of insulation becoming wet. The legal principle is an injured party is not to recover damages that could have been avoided or limited by taking reasonable steps to minimize the damages through the use of ordinary care and diligence. Just as when asserting a betterment defense, you carry the burden to prove with a reasonable estimate the amount by which the damages could have been mitigated.

Limit your exposure

Other than claims involving U.S. government buildings, cases alleging defective construction are decided based on state law. The principles governing damages an owner can recover are based primarily on prior state appellate court decisions, which are fairly consistent from state to state. The damage recovery allowed by courts in construction defect cases is intended to arrive at a fair and reasonable result and usually focuses on a close examination of the facts of the case.

You can reduce your liability exposure by taking a proactive approach and self-performing needed repairs when a claim is made. Carefully review the damages and evaluate whether all the alleged damages are the result of a defect by you, whether the damages include betterment and whether the owner took reasonable steps to limit the damages.

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SAFETY TALKS

Guardrails

Tim is a roofer who was working on a 3-story flat roof with no parapet walls when he tripped over a piece of insulation, lost his balance, and fell toward the edge of the roof, striking his shoulder against the mid-rail of a guardrail that had been installed along the perimeter of the roof. As he lay on the ground at the foot of the guardrail, he realized that his life had just been saved by that guardrail. If it had not been erected (and erected properly) he certainly would have fallen 30 feet to the parking lot below. It is not often that we talk about near-miss incidents like this, but they are impactful reminders of the importance of proper fall protection measures.

As illustrated by Tim's incident, properly installed guardrails can prevent falls from an elevation by providing a physical barrier. A guardrail is termed a "fall prevention method," which means it prevents a worker from falling from an elevation. This method is preferred over other types of fall protection, such as personal fall arrest systems and safety nets, which "arrest" falls after the occurrence. When these methods are employed, the worker experiences a fall and is caught by the safety equipment. On the other hand, guardrails effectively eliminate fall hazards. A guardrail consists of a top rail at a height of 42 inches (± 3 inches) above the walking/working level, a mid-rail at a height of 21 inches above the walking/working level, and a 3½ inch tall toe-board. The toe-board prevents objects on the working surface from falling to lower levels. Guardrails can protect workers from a fall not only on leading edges, but also holes in the walking/working surface, stairways, ramps, or any other unprotected edges. Guardrails can be purchased or can be made from wood or wire rope at the jobsite.

General Requirements for Guardrail Systems

- The top edge of the guardrail system must be 42 inches, ± 3 inches, above the walking/working surface.
- Mid-rails must be installed between the top edge of the guardrail system and the walking/working surface.
- The guardrail system must be capable of withstanding a 200-pound force applied to the top rail in an outward or downward direction. When the 200-pound force is applied to the top rail cannot deflect to a height less than 39 inches above the walking/working surface.
- All mid-rails, screens, mesh, intermediate vertical members, or panels must be able to withstand a 150-pound force in a downward or outward direction.
- Intermediate members such as balusters, when used between posts, must not be more than 19 inches apart.
- All guardrail systems must be smoothly surfaced.
- Steel or plastic banding can NEVER be used in a railing system.
- Avoid using manila, plastic, or synthetic rope because they must be inspected often and may deteriorate rapidly.

SAFETY TALK ATTENDEES:

CHARLAS DE SEGURIDAD

Barandillas

Tim es un techador que estaba trabajando en un techo plano de 3 pisos sin paredes de parapeto cuando tropezó con una pieza de aislamiento, perdió el equilibrio y cayó hacia el borde del techo, golpeando su hombro contra el riel medio de una barandilla que se había instalado a lo largo del perímetro del techo. Mientras yacía en el suelo al pie de la barandilla, se dio cuenta de que su vida acababa de ser salvada por esa barandilla. Si no se hubiera erigido (y erigido correctamente), ciertamente habría caído 30 pies al estacionamiento de abajo. No es frecuente que hablemos de incidentes de casi accidentes como este, pero son recordatorios impactantes de la importancia de las medidas adecuadas de protección contra caídas. Como lo ilustra el incidente de Tim, las barandillas instaladas correctamente pueden evitar caídas desde una elevación al proporcionar una barrera física. Una barandilla se denomina "método de prevención de caídas", lo que significa que evita que un trabajador se caiga desde una elevación. Este método es preferido sobre otros tipos de protección contra caídas, como los sistemas personales de detención de caídas y las redes de seguridad, que "arrestan" después de la ocurrencia. Cuando se emplean estos métodos, el trabajador experimenta una caída y es atrapado por el equipo de seguridad. Por otro lado, las barandillas eliminan eficazmente los riesgos de caída. Una barandilla consiste en un riel superior a una altura de 42 pulgadas (± 3 pulgadas) por encima del nivel de caminar / trabajar, un riel medio a una altura de 21 pulgadas por encima del nivel de caminar / trabajar, y una tabla de puntera de 31/2 pulgadas de altura. La puntera evita que los objetos en la superficie de trabajo caigan a niveles más bajos. Las barandillas pueden proteger a los trabajadores de una caída no solo en los bordes de ataque, sino también en los agujeros en la superficie para caminar / trabajar, escaleras, rampas o cualquier otro borde sin protección. Las barandillas se pueden comprar o se pueden hacer de madera o cable en el lugar de trabajo.

Requisitos generales para sistemas de barandillas

- El borde superior del sistema de barandilla debe ser de 42 pulgadas, ± 3 pulgadas, por encima de la superficie de caminata / trabajo.
- Los rieles intermedios deben instalarse entre el borde superior del sistema de barandillas y la superficie de trabajo / caminata.
- El sistema de barandilla debe ser capaz de soportar una fuerza de 200 libras aplicada al riel superior en dirección hacia afuera o hacia abajo. Cuando la fuerza de 200 libras se aplica al riel superior no se puede desviar a una altura inferior a 39 pulgadas por encima de la superficie de caminar / trabajar.
- Todos los rieles medios, pantallas, mallas, miembros verticales intermedios o paneles deben ser capaces de soportar una fuerza de 150 libras en dirección hacia abajo o hacia afuera.
- Los miembros intermedios, como los balaustres, cuando se usan entre postes, no deben estar separados por más de 19 pulgadas.
- Todos los sistemas de barandillas deben estar en superficie lisa.
- Las bandas de acero o plástico NUNCA se pueden usar en un sistema de barandillas.
- Evite usar manila, plástico o cuerda sintética porque deben inspeccionarse con frecuencia y pueden deteriorarse rápidamente.

ASISTENTES DE LA CHARLA DE SEGURIDAD:
