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Safety Update
PAGE 16



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## **OUR FOCUS IS SAFETY**



Safety is important to all of us in different ways. Safety can affect us directly or indirectly. Our own security is important; however, the physical safety of the people around us is just as important. Concerns over safety extend from loved ones to coworkers to employees. It's a topic that we should actively focus on, personally and professionally.



Frank E. Nunes Executive Director

In construction, safety is crucial to the business and well-being of our workforce.

One area where safety directly influences business is the Experience Modification Rating (EMR). Safety records and practices determines an organization's EMR, which in turn establishes the company's safety reputation. The lower the EMR the greater perceived safety value for the company.

But the EMR goes further than that. Owners and general contractors don't just look for competitive pricing and quality work when selecting a subcontractor. A low EMR can make the difference in being awarded a job or even invited to bid a project. There's several benefits for a business to having a low EMR, such as project savings on workers compensation premiums; but the most important reason is having your workforce feel safe on a job.

Where safety is concerned, we can never do enough to improve our practices. Make it your goal to improve your organization's EMR this year. With this truth in mind, as we move into 2016, WACA has partnered with safety expert consultant Chris Lee to keep membership informed on safety issues and practices.

Chris has extensive experience in the field of occupational safety and health, having spent more than three

decades working for both the federal Occupational Safety and Health Administration (OSHA) and Cal/OSHA. In 2009, Chris was appointed by Governor Schwarzenegger as deputy chief for enforcement with Cal/OSHA. His role oversaw all state enforcement operations with responsibility for 300 managers, compliance officers, senior safety engineers and industrial hygienists. He served as deputy for three years.

Prior to working with Cal/OSHA, Chris served as the deputy administrator for Region IX of federal OSHA.

The wide range of his responsibilities has included enforcement; voluntary programs; technical and compliance assistance; and working with the four state OSHA programs in Arizona, California, Hawaii and Nevada, as well as with the consultation programs in Guam and the Commonwealth of the Northern Mariana Islands.

Chris will provide members with safety information and practical solutions to compliance issues and advocate on WACA's behalf to government and regulatory agencies.

We're starting our first 2016 *Quarterly* issue with a review of 2015 Cal/OSHA standards Chris outlined for us on page 16.

Please welcome Chris Lee as WACA's safety consultant. Have a happy, prosperous and safe New Year!



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## 営UARTERLY

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The Wall And Ceiling Alliance (WACA) serves and represents signatory wall and ceiling contractors in Northern California's 46 counties. WACA provides resources that assist members in operating a successful business. Among the services and activities provided are educational forums, technical assistance, government advocacy, labor relations, industry promotion, marketing and networking opportunities.

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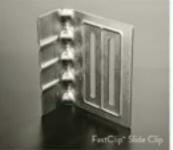
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## 2015 END-OF-YEAR REPORT

Eddie Bernacchi, Politico Group



The 2015 session of the California Legislature concluded September 11, with the governor having until October 11 to act on all bills. This year, our industry championed reform legislation (AB 1347) regarding change orders. Tackling the inequity in the public works change order process is paramount to the growth and prosperity of the construction industry. Unfortunately, Gov. Brown vetoed the bill based on the opposition of state agencies. Here is the governor's veto message:

To the Members of the California State Assembly:

I am returning Assembly Bill 1347 without my signature.

This bill creates, for three years, a new dispute resolution process under which contractors could seek public agency review of claims that arise during public works projects.

Contractors who perform work for public agencies should be paid promptly. Swift resolution of payment disputes is in the best interest of contractors, workers, and the public agencies that are charged with efficiently managing taxpayer funds. I'm not convinced, however, that the procedures contemplated by this bill are an improvement over current law.

I am committed, however, to ensuring timely payment for work ordered by public agencies. In the interest of furthering that goal I am directing my departments to immediately work with industry partners and the proponents of this bill on ways of improving our prompt pay policies.

Sincerely, Edmund G Brown Jr.

While we are disappointed that Gov. Brown vetoed our priority legislation, the industry did walk away with significant wins. These include:

· Ensuring quality construction of California schools and county facilities, and expanding signatory contractors market share, by requiring that a minimum level of skills and training is required of workers who perform work on public works projects built through alternative delivery methods such as lease-lease back, design-build, and best value contracting (AB 566, AB 1185, AB 1358 and SB 762)

- Passing emergency "clean-up" legislation that clarified that the collective bargaining agreement exemptions under California's paid sick leave law apply to both on-site and off-site construction employees (AB 304)
- Protecting contractors from exposure to very broad "consequential damages" recently being applied within public works contracts (AB 552)
- Expanding the requirement to pay prevailing wage to private hospitals that utilize state conduit revenue bonds (AB 852)
- Limiting frivolous litigation against employers regarding paystub information (AB 1506)

In addition, much of our time is spent amending or attempting to defeat legislation that would have had a negative impact on our industry. We were successful in this

area as well. This is evident in the defeat of a measure that would have required contractors to report **ALL** settlement agreements to the Contractors State Licensing Board and another intended to limit the time frame a contractor or supplier may enforce a mechanic's lien. Many additional harmful bills were either killed or amended to protect our contractors.

An overview of the pertinent legislation that was passed during the 2015 legislative session can be found on WACA's website. All of the newly enacted laws became operative January 1, 2016, unless otherwise noted.

If you have any questions or comments, or would like additional information, please contact our office. You can reach us by email, bernacchi@politicogroup. com and bret@politicogroup.com, or by phone, (916) 444-3770.





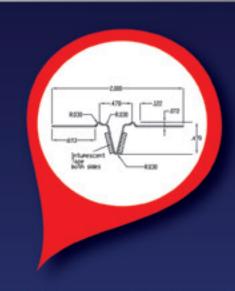


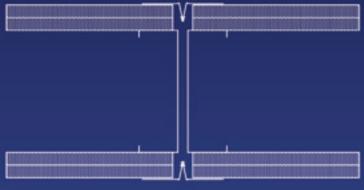
#### SINGLE STEP APPLICATION

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## 

One event we like to celebrate in grandeur is our Holiday Party. We moved the Holiday Party to the ballroom of the Fairmont Hotel in San Francisco this year. The move allowed us to accommodate more guests and create a lounge/reception area where everyone could socialize in one space.

The ballroom was stunningly transformed for the party. Our theme this year was a modern take on red and white, with plush red velvet draping the walls and a glitzy, white disco ball spinning high above the rockin' dance floor. The band Sugadady got the crowd moving with its diverse music. To add more pizzazz to the night, we had a mentalist roam the venue and interact with guests — yes, a real-life mentalist read people's minds! — and we also brought in an interactive photo booth where guests posed for the camera. Guests were able to take copies of their pictures home as souvenirs of the night.

A fun change of pace for dessert was the chef-attended stations placed throughout the room. The dessert stations offered Califor-

nia strawberry shortcake, crème brûlée and a chocolate fountain to satisfy every sweet tooth.

We gave away \$3,400 in gift cards. Raffle prizes included two \$500 and three \$250 Visa gift cards, in addition to one person at every table winning a \$100 gift card.

Our gratitude goes out to our very generous sponsors! It's due to their support that we've been able to grow the Holiday Party to what it is to date.

Pictures from the event can be seen on WACA's website in the Photo Gallery.



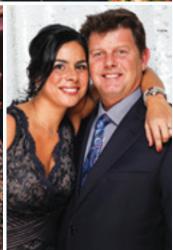
















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"The evolution of QUIKRETE® over the past 75 years has been impressive."

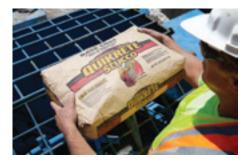
— Rob Dyer, Bulk Sales, Northern California

QUIKRETE® manufactures hundreds of professional-grade and consumer products including concrete mixes, mortar mixes, cements, concrete repair products, stuccos, waterproofing products, tile setting systems, hardscapes, blacktop products, floor underlayments, sand and aggregates, and other seasonal items.

As the largest manufacturer of packaged concrete in North America, we're proud to have helped revolutionize the building and home improvement markets. Our pre-blended products increase job-site efficiency, consistency and quality while reducing material loss and labor costs. We also offer related products through numerous wholly owned subsidiaries including SPEC MIX®, Pavestone®, Custom Building Products®, Target Technologies®, Daubois® and QPR®, making QUIKRETE® a one-stop shop for contractors.

One of our specialized products is the QUI-KRETE® Base Coat Stucco – Pump Grade, which is a flowable, high-workability plaster designed for spray applications. All of the major finishing coat manufacturers use this product in their systems and can't do without it now. We have on hand for our customers at each distribution center 80-pound (36.3-kilogram) bags and 3,000-pound (1,360-kilograpm) bulk bags (super sacks) of this product, with a yield of approximately 0.83 cubic feet (23 liters) of material for





each 80-pound bag. Our SPEC MIX® FBC (fiber-based coat) is also in high demand.

I like to brag about our company. The evolution of QUIKRETE® over the past 75 years has been impressive. I'm most proud of how we've been able to supply quality, affordable products to our customers. QUIKRETE® is able to support our distribution centers by shipping our products directly to contractors. We supply to most areas and generally don't have to truck over 200 miles to deliver our products. Each plant has its own QC (quality control) to ensure brand quality. In our tech centers, there are experts working to advance our products even further.

If it involves a dry powdered aggregate combo, we can make it. QUIKRETE® is able to pinpoint exactly what the contractor needs and whatever product is needed.

Our company is family-owned and -operated. We're celebrating over seven decades in the business. Gene Winchester, a former aeronautical engineer, came up with the idea of premixed concrete bags in 1940. Winchester went on to found QUIKRETE® that year in Columbus, Ohio. Our headquarters are now located in Atlanta, Georgia. We have over 100 bagging plants in the United States (including Hawaii), Canada, Puerto Rico, and Central and South America. This growth is a feat for a company that once offered only three products from a single plant to a company that now delivers products to customers across the country within 24 hours.

We have evolved from a "concrete in a bag" business to an iconic American brand. QUI-KRETE® branded products have been used in renowned projects such as the Frank Lloyd Wright house, the National Museum of the American Indian, Alcatraz Island, the San Francisco Bay Bridge, Georgia World Congress Center, and the Bill and Melinda Gates Foundation. In fact, not long ago, the New York Port Authority via Acies Construction used 3,780 80-pound bags of QUIKRETE® One Coat Fiberglass Reinforced Stucco (FRS) to strengthen new and existing archways for a nationally recognized landmark, the Statue of Liberty. To comply with current industry



building codes, the archways needed to be widened over stairwells and tunnels. Now QUIKRETE® is part of one of the most iconic symbols of our country.

It's easy to agree that QUIKRETE® is — as our motto states — "What America's Made Of™."



## 2016 WALL & CEILING EXPO



## **JULY 29, 2016**Alameda County Fairgrounds

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You must register to attend

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- \star Can't-miss exhibits
- ★ Product showcases
- Seminars led by industry experts
- ★ Live demonstrations

#### **Who Should Attend?**

Architects, designers, building officials, contractors, general contractors, suppliers and dealers, manufacturers, industry professionals, and architectural and construc-

tion management students — or anyone interested in the wall and ceiling industry!

#### Why Should You Attend?

This event provides an opportunity to connect with your peers and get the most up-to-date information in our wall and ceiling community.

#### Want to Exhibit?

Get your company noticed! Booth space is available. Booth fee: \$500. Download the exhibitor registration form at www.wallandceilingalliance.org, or email Ben Duterte, ben@wcbureau.org/Mike Nonn, mike@wcbureau.org.

## O'Donnell Plastering, Inc.



We're a very hands-on shop ... We take pride in helping one another to make each endeavor successful.

Shawna Alvarado, Controller

O'Donnell Plastering, Inc. (O'Donnell) specializes in lath and plaster, EIFS, fireproofing, and metal stud framing, and we provide our own scaffolding. Our reach covers the South Bay, East Bay and West Bay, as well as the Santa Cruz and Monterey areas. We had one project go as far out as the Lake Tahoe territory, but generally most of our business is in the Bay Area.

Currently there are 70 employees. The number of employees has ranged from five all the way up to 250, depending on the project and season.

As of May 2016, O'Donnell will have been in business 44 years. The company was founded in 1972, starting out of the garage of my mother and father, Chet and Marlene O'Donnell, in Santa Clara, California. After the business grew, we moved into the Santa Clara Builders' Exchange building. Eventually, we bought an office on a nice piece of land, where the company has been located for the past 30 years.

I'm proud to say O'Donnell is a woman-owned, family business. We're a very hands-on shop; there isn't just one person involved on a project. We take pride in helping one another to make each endeavor successful. Staff loyalty is important to us. Employee longevity averages more than 17 years here. For example, one staff member has been with us for over 30 years. I think this says a lot about how we appreciate, value and respect our employees. Due to long-term employment, our staff is able to accrue multiple skills and leadership training. These acquired abilities contribute to the expertise and knowledge base of our business.

And that hard work and expertise is paying off. We're currently working on two major multimillion dollar projects, the Stanford Graduate School of Business Residence for Devcon (pictured), and the Santa Clara Square Retail for the South Bay. Two high-profile projects we have coming up are the Creekside office building/garage in Campbell and The Lodge at Pebble Beach Golf Course. These jobs, as well as many others, will keep us with a full backlog for 2016.

Residential multifamily construction has always taken a large portion of the market share that's going nonunion. Today, we're seeing this pattern creep into commercial work, especially retail. It's probably our biggest challenge at this time, and an ongoing one. It's always the battle of the lowest bidder.

A question O'Donnell has faced is whether to specialize or expand. We've chosen to specialize. I believe we found our niche as "the master of plaster." Not all plaster companies have the years of experience that we do. When bidding for projects, we work from this precise advantage. O'Donnell's specialization allows us to truly master and excel at our craft.

The O'Donnell team has received numerous awards throughout the years, including WACA's Construction Excellence Award (CEA). In 2014, we received the CEA for Institutional Interior for the San Mateo High School Performing Arts Center. In 2015, we won two CEAs, one for Retail Exterior for the Village Retail Center in San Leandro and the other for Commercial Exterior for the 400 Main Street office complex in Los Altos. In addition, we've earned a certified Parex Medallion applicator award.

O'Donnell has been working in the industry so long and doing such quality work that there isn't much need to market ourselves at this point — networking, yes, but not so much marketing. Around 90 percent of our work is repeat business, so the numbers speak for themselves. We are truly grateful and blessed with our business relationships, as well as the friendships we've made along the way.

Among Marlene and Chet's many efforts, they're grooming the second generation to run the business, and beginning to train the third generation as well. There are other good plaster companies out there, so we strive to learn new ways to perfect what we do. After all, we want to remain "the master of plaster" in the industry.







## **2015 SAFETY REVIEW**

Chris Lee, WACA Safety Consultant

This safety article reviews the following:

- 1. Standards-related actions taken by Cal/OSHA in 2015
- 2. A proposal to change the definition of "repeat" violation
- 3. California work-related injury and illness trends

## 1. Standards-Related Actions Taken by Cal/OSHA in 2015 Heat Illness Prevention

After considerable discussion and debate, the Cal/OSHA Standards Board took action to revise Title 8, Section 3395, Heat Illness Prevention. The revisions became effective as of May 1, 2015. The changes described below are a few examples where new requirements are now in effect or where pre-existing requirements were revised.

- Water Drinking water is now required to be "fresh, pure, and suitably cool." Efforts to impose maximum distance requirements were defeated, and drinking water must be "as close as practicable."
- Shade Shade must be present at 80 degrees Fahrenheit. This temperature trigger was lowered from 85 degrees Fahrenheit. No obstacles or barriers may prevent employees from accessing shade, and it should be large enough to accommodate the number of employees who could take a preventative cool-down rest period or meal period.

- High heat Trigger temperature remains at 95 degrees. A proposal to lower it by 10 degrees was not supported by a wide array of stakeholders. Supervisors or their designees must observe employees, and a "buddy" system must be used. Regular communications must be ensured, and pre-shift meetings must occur.
- Written heat illness prevention plan –
   A written plan is required. It must be translated into a language understood by a majority of non-English speaking employees.
- Emergency response plan When needed, emergency medical services must be summoned as quickly as possible. Employees with signs/ symptoms of heat illness must not be left alone or sent home without first aid or emergency medical services being provided.
- Acclimatization During periods of high heat when new employees are working, employers must remain extra vigilant, and those employees must be observed

- by a supervisor or their designee. New employees in high heat areas must be observed for the first 14 days.
- Training Training must be provided before work begins, and the issues of water, shade, cool-down rests and access to first aid must be covered. Also, the concept, importance and methods of acclimatization must be addressed.

These are a few of the key changes. To ensure your heat illness prevention plan is consistent with the changes, see Cal/OSHA's "Employer Sample Procedures for Heat Illness Prevention" at www.dir.ca.gov/dosh/dosh\_publications/ESPHIP.pdf.

#### **Lead in Construction**

Since 2010, Cal/OSHA has been working on a proposal to lower the permissible exposure limit (PEL) and the action level (AL) for exposure to lead in construction. Several advisory meetings and requests for comment occurred including the most recent meeting in November 2015. Cal/OSHA hopes to have a package submitted to the Cal/OSHA Standards Board in early 2016.

Most significantly, the proposal reduces the PEL by 80 percent (from 50 micrograms per cubic meter ( $\mu g/m^3$ ) to 10  $\mu g/m^3$ ) and the AL by 93.3 percent (from 30  $\mu g/m^3$  to 2  $\mu g/m^3$ ). Other proposed changes include:

- Basic hygiene protections for all employees with occupational exposure
- A definition regarding presumed leadcontaining coatings
- Elevated blood lead level investigation requirements
- Changed criteria for medical removal protection (MRP)
- Protection of employee reproductive health

Under this proposal, employers conducting abrasive blasting such as in bridge work would have a five-year phase-in period to meet the new lower PEL.



Recognizing the potential negative impact of this proposal, I drafted a position letter endorsed by the Wall And Ceiling Alliance, United Contractors, the Associated General Contractors, the Southern California Contractors Association, the National Electrical Contractors Association and the Northern California Allied Trades. This letter has been submitted to Cal/OSHA and is now part of the official record.

To review documents related to the most recent advisory meeting and to obtain more information, visit www.dir.ca.gov/dosh/DoshReg/5198Meetings.htm.

#### **Confined Space Rule for Construction**

In November 2015, the Cal/OSHA Standards Board held a meeting to adopt verbatim federal OSHA's rule establishing a separate confined space standard for the construction industry. The rule will take effect as soon as the Office of Administrative Law completes its final review and approves it. It is important to note the Board's action is not the end of the process. Cal/OSHA has announced its intention to convene advisory meetings in 2016 to discuss stakeholder concerns expressed during the comment period.

The Board adopted the federal rule verbatim as it is unable, in some instances, to adopt a federal change within the statutory sixmonth time frame. The Board then convenes advisory meetings to discuss concerns raised by stakeholders and consider modifications.

The California version creates a new standard, Construction Safety Orders Sections 1950 through 1962. The basics remain the same as in the general industry standard, including requirements for employers to identify and evaluate the hazards of permitrequired confined spaces. Prior to employee entry, employers must develop and implement safe practices for entry, prevent unauthorized entry, and develop effective procedures for summoning rescue and emergency personnel.

Recognizing that construction sites will have multiple employers on-site, there are a number of multi-employer requirements. Employers must inform employees exposed to such potential hazards using warning signs. They must also notify employers and authorized representatives through several means.

Before a confined space entry, the manager must provide specific information to the employer about the location of each known space and potential hazards. Then the employer must provide this information

Before a confined space entry, the manager must provide specific information to the employer about the location of each known space and potential hazards. Then the employer must provide this information to each entity that will enter the space.

to each entity that will enter the space. Information about the precautions being used to protect workers must be provided by the employer.

For additional information on confined spaces, visit www.dir.ca.gov/oshsb/Confined \_Spaces\_in\_Construction(Horcher).html.





#### Why WACA?

Our members make up one of the most highly skilled and experienced union workforces in Northern California. We give our members a stronger presence in the wall and ceiling industry through:

#### **★** Education & Training

We offer informative educational programs that help members stay up to date with current business practices.

#### **★** Technical Assistance

Our technical partner, the Wall and Ceiling Bureau (WCB), keeps our members informed on building codes, safety standards, and current wall and ceiling standards.

## THE VOICE OF THE WALL AND CEILING INDUSTRY

#### **★ Labor Relations**

We work to keep our members informed on current and future labor, legal and regulatory compliance issues.

#### **★** Government Advocacy

We give our members a stronger voice by representing contractors at the local, state and national levels of government.

#### ★ Events & Networking

Members have an opportunity to build business relationships, develop partnerships, share expertise and exchange ideas.

Download a membership application by going to www.wallandceilingalliance.org or contact Carmen Valencia at carmen@ wallandceiling.org.

#### 2. Proposal to Change the Definition of "Repeat" Violation

According to federal OSHA regulations, "state plans" (such as Cal/OSHA's) must enforce safety and health regulations that are "at least as effective as" comparable federal standards. As a result of an enforcement action, Cal/OSHA may issue citations and notification of penalties with a classification of "regulatory," "general," "serious," "willful" or "repeat," or as a combination of such classifications (per 8 California Code of Regulations, Section 334).

As a result of annual federal monitoring of the Cal/OSHA program in 2013, federal OSHA indicated that California's enforcement program's rate of "repeat" violations was lower than the federal average and recommended that California consider employer history statewide when issuing such violations instead of limiting them to the boundaries of the regional office in which the original citation was issued. In response, Department of Industrial Relations (DIR) Director Christine Baker initiated rulemaking dated August 14, 2015, to alter the "look back" period from three to five years and to eliminate the regional office boundary geographical restriction.

Subsequent to the August rulemaking, a proposed modification was made by DIR that contains an additional proposal that should be disconcerting to members. DIR has proposed that a second violation would be classified as "repeat" if it involves a "hazard" or "condition" that is "similar" to the hazard or condition affirmed in a previous violation.

An opposition letter has been drafted and circulated to several stakeholder organizations for submission to DIR for the official record. In that letter, the signatory organizations disagreed with the proposals to lift the geographic restriction and extension of the time frame as burdensome. particularly for larger employers with multiple job sites in California. We strongly disagreed that similar hazards or conditions should constitute the basis for a repeat violation. As the terms "similar," "hazard" and "condition" are not defined in Title 8, California Code of Regulations, the proposed amendment would leave an open interpretation of the proposed standard in the hands of each of the approximate 200 individual compliance



Data Source: U.S. Bureau of Labor Statistics, Survey of Occupational Injury and Illness, in cooperation with the California Department of Industrial Relations.

officers in California. We believe this would violate the constitutional due process rights of employers.

As an example, representatives of Cal/OSHA have publically acknowledged that a hazardous use of a ladder and failure to use fall protection (when required) would both involve a "similar hazard" — a fall hazard. An employee's hazardous use of a ladder is clearly not the same as an employee's failure to use fall protection — on a roofing job, for example — even though each activity may involve a "similar" hazard. The proposed amendment would seem to inappropriately treat two completely unrelated activities as the same.

For additional information, go to www. dir.ca.gov/dosh/doshreg/Definition-of-Repeat-Violation.

## 3. California Work-Related Injury and Illness Trends

Working with the California DIR, the U.S. Bureau of Labor Statistics collected data for its Survey of Occupational Injuries and Illnesses (SOII) that reflected a total of 460,000 reportable injury and illness cases in 2014, of which 265,000 cases involve lost work time, job transfer or restriction from duty cases. The DIR has posted California's 2014 occupational injury and illness data, which shows that the incidence of occupational injuries continues to decline.

Key findings of the report include the following:

- In those cases involving days away from work, Latino workers continue to experience the highest incidence of occupational injuries, comprising 59 percent of all reported days away from work cases.
- In private industry, new hires and young workers have higher rates of injury. Twenty-five percent of workers whose injury or illness at work involved days away from work in private industry had been on the job less than a year. Teenagers from 16 to 19 years of age suffered the highest incidence of days away from work compared to all other age groups.
- Sprains, strains and tears are the largest injury category involving days away from work. For private sector workers, the greatest number of injuries or illnesses requiring days away from work were caused by overexertion and bodily reaction; contact with an object or piece of equipment; and falls, trips and slips.

I will continue tracking the Standards Board's actions on this new regulation and monitor the status of the proposal, and report on further action by DIR to membership.

Chris Lee has extensive experience in the field of occupational safety and health, having spent more than three decades working for both the federal Occupational Safety and Health Administration (OSHA) and Cal/OSHA.

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## CALENDAR OF EVENTS



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#### **AWCI Convention and INTEX Expo**

Mercedes-Benz Superdome Hyatt Regency New Orleans New Orleans, Louisiana

#### APRIL 28-30, 2016

#### **NWCB Convention and Trade Show**

Loews Coronado Bay Resort San Diego, California

#### JULY 29, 2016

#### **WACA Wall & Ceiling Expo**

Alameda County Fairgrounds
Pleasanton, California

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Scaffold Solutions Inc. is a privately held company in American Canyon, California, providing scaffolding and rigging to the construction industries. The company was established in 2006 and incorporated in California. President Ed Sanchez employs a staff of approximately five to nine.

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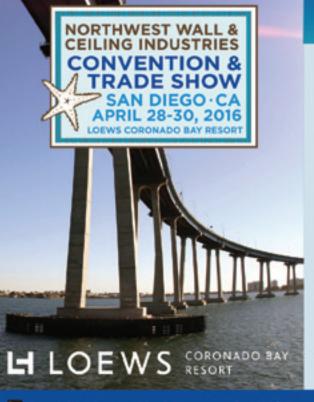




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