



# NERCA NEWS

NORTH / EAST ROOFING CONTRACTORS ASSOCIATION INC.  
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October 2019

## NERCA Webinar Wednesday

Join NERCA and Attorney Philip Siegel of Hendrick, Phillips, Salzman, & Siegel for a webinar entitled

[“Real Live Losses and Wins! Lessons Learned from Actual Employment-Related Claims”](#)  
**November 6, 2019 at 1:00 PM**

Mr. Siegel will explore four employment-related claims brought against contractors. The cases to be discussed include one wage and hour case, a claim brought under the Americans with Disabilities Act, and two OSHA cases involving the use of the unforeseeable employee misconduct defense and meeting the duty of a controlling employer on a multi-employer worksite.

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

Tuesday, March 17<sup>th</sup>, 2020 –  
Thursday, March 19<sup>th</sup>, 2020

Hard Rock Hotel & Casino  
Atlantic City, NJ

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



**Coach Dick Vermeil**  
**Confirmed as Keynote Speaker**  
**for Annual Business Brunch**  
**March 19<sup>th</sup>, 2020**

Former NFL Super Bowl Winning Head Coach for the Philadelphia Eagles, St. Louis Rams & Kansas City Chiefs.

## Congratulations to the 2019 NEREF Fall Golf Outing Winners

### 1<sup>st</sup> Place - 54

Steve Harvey  
Chick Gorman  
Mike Michel

### 2<sup>nd</sup> Place – 56

Jeff Hunt  
Matt Brown  
Dave Klein  
Andrew Hunt

### 3<sup>rd</sup> Place – 57

Chris Sears  
Chadd Lewis  
Victor Szala  
Rose St. Pierre

**Long Drive**  
Andrew Hunt

**Closest to the Pin**  
Chris Sears

## NRCA Named Most Trusted Construction Trade Association

[BUILD magazine](#) honored the National Roofing Contractors Association (NRCA) as part of its Construction & Engineering Awards 2019. “We are honored to receive this recognition” says Reid Ribble, NRCA’s CEO.

“Since 1886, NRCA has responded to its members’ needs and worked to improve the roofing industry for all stakeholders.”



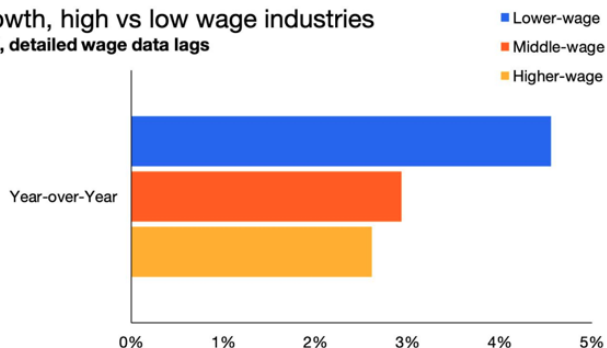
National Roofing Contractors Association

Most Trusted Construction Trade Association 2019 - USA

## Reports Shows Substantial Gains in Wages for Low Wage Workers

If you look at the overall economy, there is something strange happening. The Labor Department has been reporting lower and lower rates of unemployment to now a 50-year low, but wages have remained stagnant, growing at not much more than the rate of inflation. However, a recent analysis by job searching site Indeed has revealed that while wages are stagnant for middle and high wage workers, low wage workers are making gains of almost 5% per year.

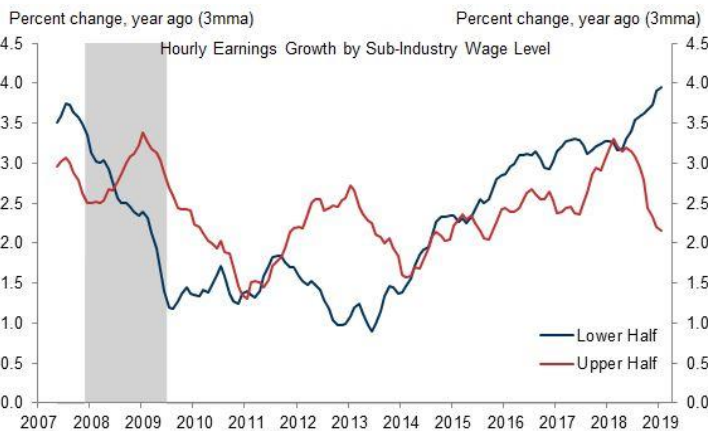
Wage growth, high vs low wage industries  
August 2019, detailed wage data lags



Source: Bureau of Labor Statistics



This trend is consistent with reports from the New York Times and Goldman Sachs which attribute the sharp increase to the low rate of unemployment, but more importantly to the recent increases in the minimum wage in states with large populations.



Source: Department of Labor, Goldman Sachs Global Investment Research

Moving forward employer hiring will be a real economic indicator. If hiring slows, it will either mean the labor market is tapped out and could lead to even faster wage growth or it will indicate that employer confidence is weakening which could signal a potential economic downturn is on the horizon.

## Recall of 3M Half Facepiece Disposable Respirators 5000 Series – Medium

During a recent internal review, 3M discovered a potential issue involving Half Facepiece Disposable Respirators 5000 Series. In a limited number of instances, we have observed a pinhole in the chin area of the face seal. This affects only certain 5200 (Medium) respirators that were manufactured in July 2019, with Lot Numbers 9184 through 9204. No other 3M half facepiece respirators are affected by this issue.

If you believe you have a respirator affected by this recall, please complete the form at <https://engage.3m.com/5000Series>. Or if you have any questions refer to the full [User Advisory Notice](#) or contact 3M Technical Service at 1-800-243-4630.

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## Federal Court Upholds Cap on Tax Deductions for State and Local Taxes

In late September, a federal district court judge in Manhattan rejected an argument by New York, New Jersey, Connecticut, and Maryland that a cap on the federal tax deductions for state and local taxes would disproportionately affect residents of high tax states that are likely to exceed the \$10,000 limit. President Trump's 2017 tax law limited deductions under a provision known as the SALT cap. The judge in the case rejected that the states had any argument since the SALT cap is clearly within congressional taxation powers even if it clearly affects some states more than others.

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## New Overtime Salary Threshold

The Department of Labor announced a final overtime rule, setting the minimum salary threshold for overtime eligibility at \$35,568. The threshold previously was set at \$23,000. A senior DOL official says an estimated 1.3 million additional U.S. workers will be eligible for overtime pay after the rule takes effect Jan. 1, 2020. The threshold is slightly higher than the \$35,308 proposed in the initial draft of the rule and will allow employers to count non-discretionary bonuses, incentives and commissions as up to 10% of an employee's salary level provided those bonuses are paid annually. In addition, the exemption for highly compensated employees will be set at \$107,432, which is lower than in DOL's initial draft but still higher than the previous threshold of \$100,000.

# Thank you to our Fall Golf Sponsors

*ABC Supply Company, Inc.*

*A.C.T. Metal Deck Supply*

*A.R.M. Roofing Inc,*

*Atlantic Asphalt & Equipment Co., Inc.*

*Barrett, Inc.*

*Boston Roofing Contractors  
Association*

*Canopy Roofing Systems*

*CertainTeed Corporation*

*Eastern Architectural Reps*

*Feeley, McAnespie, Inc.*

*FiberTite Roofing Systems*

*Firestone Building Products*

*H.B. Fuller*

*Hunter Panels*

*J&S Building Exteriors, Inc.*

*Lincoln Equipment Associates, Inc.*

*Marshall Roofing & Sheet Metal  
Company Inc.*

*The Melanson Company, A Tecta  
America Company, LLC*

*North/East Roofing Contractors  
Association*

*O'Lyn Contractors, Inc.*

*R&S Construction Services Inc.*

*Residential Exteriors, Inc. (REI)*

*R.K. Hydro-Vac Inc.*

*Rockwell Roofing, Inc.*

*John F. Shea Company, Inc.*

*SMR Inc.*

*Max Sontz Roofing Services, Inc.*

*SRC Roofing Inc.*

*United Roofing & Sheet Metal, Inc.*

## OSHA Announces New Weighting System for Inspections

Effective October 1, 2019, OSHA unveiled a new weighting system to guide its allocation of resources for job site inspections and enforcement.



The new system dubbed the OSHA Weighting System (OWS) replaces the former Enforcement Weighting Systems (EWS) enacted in 2015. Previously, OSHA used the time it would take for an inspection as the most critical factor in determining how to conduct jobsite inspections. This allowed for more complex inspections to be conducted rather than trying to perform the most inspections possible. Now, the OWS will take into consideration other factors such as:

- Agency enforcement priorities
- Impact of inspections on workplace safety
- Hazards inspected and abated
- Site-Specific Targeting (SST) program objectives

So what does this mean for contractors? It likely means an even greater focus on the industry by OSHA since falls remain one of OSHA's Fatal Four highest cause of jobsite deaths. The OWS will encourage OSHA inspectors to further target these high impact hazards which are the cause of over 60% of fatalities.

OSHA inspections are graded based on criteria called Enforcement Units (EU). [The OWS changes how these EUs are awarded by looking at the type of inspection and ranking them according to grouped criteria.](#)

- Group A: Criminal and Significant Cases (7 EUs)
- Group B: Post-accident Inspections (5 EUs)
- Group C: Fatal 4 Inspections (3 EUs)
- Group D: Priority Hazards (2 EUs)
- Group E: All Other Inspections (1 EU)

Conveniently, the OWS also improves OSHA's method of self-evaluation. Under the old EWS, OSHA had reported a modest decline in total EUs from 40,199 in FY16 to 38,760 in FY18. However, under the new OWS, those numbers were increased and reversed to 60,054 in FY16 and 61,197 in FY18.

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## LEGISLATIVE CORNER

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### **NATION:**

For the second time, President Trump has vetoed legislation ending the national emergency on the southern border with Mexico. The legislation sponsored by Democrats earned the support of 11 Republicans in each chamber but is well short of the two-thirds majority needed to override the veto. Congress can revoke every six months after a veto which helps Democrats targeting vulnerable Republicans ahead of the 2020 Elections.



### **NEW JERSEY:**

In August, New Jersey's wage and hour laws were changed according to recommendations made by a Wage Theft Taskforce. The changes expand the statute of limitations, increase damages and criminal penalties, strengthen anti-retaliation provisions and make it easier for employees to prevail on wage and hour claims.

### **NEW YORK:**

A 2017 state report found that 75% of construction-related noise complaints involved work being done on an after-hours permit. Now, the city council is considering a bill which would limit construction work to no earlier than 6 a.m. and no later than 10 p.m. on weekdays; weekend work would be restricted to 8 a.m. to 6 p.m. The bill would also restrict after-hours work to four days a per week, including one weekend day. It would also limit after-hours work in individual neighborhoods by requiring companies doing such work on adjacent blocks to do it at the same time. Exceptions could be made for public safety, utility and government projects.

### **CONNECTICUT:**

On May 9<sup>th</sup>, Gov. Ned Lamont signed legislation initiating a state hemp research program that set regulations for state-approved hemp production. Hemp is the industrial material related to marijuana, but without the psychoactive compound THC which allows people to get high. Thus far, the state has licensed 82 hemp growers, 21 manufacturers, and 2 processors in the industry covering 294 acres of hemp production. Products include CBD concentrates, hemp rope and cloth, and even hempcrete which is a hemp and lime mixture as strong as concrete, but less than half as heavy.

### **MAINE:**

Opponents of the Central Maine Power (CMP) transmission line are launching a statewide ballot initiative to give Maine voters an opportunity to pass judgement on the proposed project. The \$1 billion New England Clean Energy Connect project aims to bring clean Canadian hydropower to Massachusetts and the rest of New England. The project was originally slated to pass through New Hampshire but was rejected there by regulators after loud public opposition. CMP has faced similar opposition from some of the local communities it will pass through but maintains the support of Gov. Janet Mills.

### **MASSACHUSETTS:**

Gov. Baker testified before the Joint Committee on Transportation to support the administration's proposed Transportation Bill, which seeks an \$18 billion investment in transportation. The proposal includes initiatives to combat congestion and nearly \$5.7 billion to continue modernizing the MBTA, \$150 million on repaving projects, \$20 million to help cities build 'Complete Streets' infrastructure encouraging the walking and cycling, \$70 million for the Municipal Small Bridge Program and \$1.25 billion for the Next Generation Bridge Financing Program.

### **NEW HAMPSHIRE:**

Republican Gov. Chris Sununu vetoed a record 55 bills this session, which were subject to reconsideration for an override by the State Legislature. None of these vetoes were successfully overridden in both chambers, while 3 were overridden by the Senate, but not the House.

### **PENNSYLVANIA:**

The Construction Industry Employee Verification Act requiring construction employers to use the federal E-Verify system recently became law. E-Verify is a federal database of citizens and legal visa holders which ensures that potential employees are authorized to work in the United States. Under the law, failure to use E-Verify will result in action against a company's licenses required to do business. The House voted 170-28 and the Senate voted 46-3 in favor of the bill. The law is modeled after a statute in Arizona. It will go into effect in one year.

### **RHODE ISLAND:**

On July 5, 2019, Rhode Island, adopted an individual health insurance mandate. The laws require residents, beginning on January 1, 2020, to have health insurance coverage or owe a tax penalty. In addition, beginning in 2021, employers will have reporting obligations under the law. After President Trump's Tax Cuts and Jobs Act of 2017 repealed the Obamacare individual mandate states concerned with the weakening of Obamacare are using state laws to impose the requirements holding the law together. Massachusetts, New Jersey, Vermont, already have individual health insurance mandates. Other states, including Connecticut, Hawaii, Minnesota, and Washington, are considering such mandates.

### **VERMONT:**

After two traffic flaggers died in separate incidents on the same day, road workers went to the Vermont State House to urge lawmakers to enhance individuals violating traffic laws in work zones. The "Orange Lives Matter" group wants to see penalties increased from \$250-\$500. Also, they asked the state to empower police detailed to the jobsite to chase anyone violating the law.