



March 27, 2014

This newsletter is delivered electronically to our members.

INDUSTRY

U.S. House to Vote on ObamaCare Employer Mandate Change – Contact Your Elected Officials!

Next week, the House could vote on an important modification to the Affordable Care Act's definition of full-time employee. The law defines full-time employees as those with 30 hours of service per week, which is below the 40-hour standard many employers use today and is not in line with current workforce practices.

AGC supports H.R. 2575, the Save American Workers Act, which would replace the definition with a higher standard more in line with current practices, 40 hours of service per week. The change in the law should be adopted to avoid disruptions in the labor markets and limit some of the complexity associated with complying with the Affordable Care Act.

Please use [AGC's Legislative Action Center](#) and send a letter to your members of Congress today.

Staff Contact: [Walter Pacholczak](#)

NEW ACORD Form 855 – Industry Webinar, May 21, 2014

NY Construction Certificate of Liability Insurance Addendum

The ACORD 855 (to be released in June 2014) is a tool AGC NYS, with the help of the speakers, Kevin Viaña —Marshall & Sterling Insurance, Marilyn Maher—E. W. Howell Co., LLC and William Greagan, Esq.—Goldberg Segalla, LLP worked very hard to get to the market to help contractors ensure that their subcontractors are providing adequate coverage. In this current insurance market caused largely by the ravages of Scaffold Law, the need for this form is becoming more and more apparent. This program will provide information about why this form is necessary and how to employ this tool. This program is a must for:

- Contractor/Subcontractor Executives
- Project Executives/Managers/Superintendents
- Building Owners/Managers
- Risk Managers
- Administrative Staff

Cost: \$25 AGC NYS Members, \$55 non-members. Click [here](#) to register on the Go-To-Webinar site.

Staff Contact: [Brendan Manning](#)

AGC Addresses Risk in P3 Comments

[AGC of America submitted comments](#) to the Federal Highway Administration (FHWA) on a Draft Core Toll Concessions Public Private Partnership Model Contract Guide for P3 concessions using tolling as the revenue source. The Guide was prepared by FHWA in response to a requirement in MAP-21 that the agency develop model transaction documents for P3s. It is the first of several Guides that FHWA intends to produce dealing with P3 arrangements. AGC's comments were favorable about the Guide pointing out that FHWA did a good job of balancing the desire for not mandating specific contract language with the equally strong desire to make P3s more uniform from a risk allocation point of view. AGC participated in a Listening Session that DOT held seeking suggestions on how to implement this MAP-21 directive and also previously submitted written comments and suggested at those sessions that FHWA not develop any mandatory contract language.

Staff Contact: [Karen Morrison](#)

The 5th Annual MTA MWBE Conference Set for May 8

The 5th annual MTA MWDBE conference: *Fast Track to Your Success*, is being held May 8, 2014 in New York City. Last year's event was a huge success and with the projects the MTA is planning this year, along with them releasing details on their upcoming 2015-2019 Capital Plan, they are expecting even more attendees. We look forward to your participation.

As an attendee you will:

- Hear about upcoming projects across all MTA operating agencies
- Meet with the MTA directly and learn about new opportunities
- Get a first glimpse of the upcoming 2015-2019 Capital Plan
- Learn how to be a part of the Small Business Mentoring and Federal Programs
- Network with hundreds of general contractors and subs
- Have access to an in depth, post event certification workshop hosted by the MTA

Additionally, the MTA will be announcing exciting changes in their programs and will be presenting MWDBE's with new and exciting opportunities.

Click [here](#) for more information on becoming a sponsor or registering for the program.

<http://construction.com/events/2014/mta/register.asp>

Staff Contact: [Brendan Manning](#)

EPA Posts Guidance Document for Buy America Compliance

On March 21 US EPA published guidance on provisions of the Buy America regulation. Follow the link below:

http://water.epa.gov/grants_funding/aisrequirement.cfm

House Panel Approves Bill Prohibiting Reverse Auctions for Construction

Take Action: Urge Your U.S. Senators and Representatives to Support H.R. 2751

On March 5, the U.S. House of Representatives Small Business Committee unanimously approved by voice vote the Common Sense Construction Contracting Act of 2013, H.R. 2751, introduced by Representative Richard Hanna (R-N.Y.). This legislation would essentially prohibit federal agencies from procuring construction services through reverse auctions. This is the first major hurdle the bill had to jump before becoming law. However, more hurdles remain ahead in the legislative process. Please take action and urge your U.S. Senators and Representatives to support H.R. 2751.

Staff Contact: [Walter Pacholczak](#)

DEC Schedules Webinars on Process for Environmental Assessment Forms (EAF)

A series of webinars to instruct government agencies and the public on how to use the streamlined and revised Environmental Assessment Forms (EAF) will be held this spring.

The webinar will include a discussion on the new EAF Mapper which provides project sponsors with spatial data from DEC's Geographic Information database that previously required either calling a DEC office or submitting a written request for data that could take days or even weeks to obtain. Now, using the EAF Mapper, that information can be obtained in under three minutes for most projects.

The revised model EAFs are used primarily by state and local agencies to assess the potential environmental impact from proposed actions such as development projects requiring a discretionary approval by a state or local agency. Examples of such projects include residential subdivisions, solid waste management facilities and commercial/office developments.

The revised model EAFs became effective on **October 7, 2013** and has extensive new features. DEC designed the new forms and the web-based framework for the guidebooks and software mapping program, EAF Mapper. The webinar will demonstrate how the three tools work together to speed the completion of EAFs by both project sponsors and reviewing agencies.

Webinars have been scheduled for:

April 29 - 6 p.m. - 7:30 p.m.

May 6 - 10 a.m. - 11:30 a.m.

May 13 - 3 p.m. - 4:30 p.m.

May 15 - 6 p.m. - 7:30 p.m.

May 22 - 2 p.m. - 3:30 p.m.

Registration is required and is limited to 100 people at each webinar. To reserve a spot at a webinar, go to: <https://www.eventbrite.com/e/nysdec-environmental-assessment-form-webinar-series-tickets-10515689711> and select a date and time.

Registrants will receive further information on how to join the webinar after they sign up. For additional information, contact DEC's Division of Environmental Permits & Pollution Prevention at 518-402-9167 or send an e-mail to: depprmt@gw.dec.state.ny.us.

Staff Contact: [Brendan Manning](#)

Membership Directory Updates are in the Mail

We are working toward a much earlier delivery date for the Membership Directory. Please be sure to check your mail for the update forms that have been mailed to you. Please make any necessary changes and return them to us by April 1, 2014.

Interested in advertising in the Membership Directory-you still have time. Michael Jamison, our new Communications Director at AGC NYS, is still taking orders for advertisements in our member directory which is sent to over 600 members and organizations around the state. For inquiries please contact Michael at mjamison@agcnys.org or call our office at 518-456-1134.
Staff Contact: [Michael Jamison](#)

AGC NYS Scholarship Applications Now Available Online

The 2014 AGC NYS Undergraduate/Graduate and Diesel Technology scholarship applications are now on the AGC NYS Website. The Undergraduate/Graduate Scholarships are available to New York resident college students working towards a degree in Civil Engineering, Construction Technology and Construction Management at colleges or universities. The Diesel Technology scholarship offers two \$1,500 scholarships annually for students studying Diesel Technology.

If you know of any students or colleges offering those majors please pass this along to them for distribution. The application deadline is May 15. Visit

<https://www.agcnys.org/programs/scholarship> for more information.

Staff Contact: [Brendan Manning](#)

Player Gift Pack Items Needed for the Anthony S. Santaro AGC Scholarship Classic

Plans are well underway for this year's golf tournament being held on June 23 at Turning Stone Resort. We are celebrating our 25th anniversary this year. If your firm would like to contribute to the player gift pack we are distributing at the tournament please let us know. We anticipate another great turnout so we are seeking 375 items per firm. If you are generous enough to send your company logoed golf balls we are requesting 94 dozen if you would like to give a sleeve to each player. If you have any questions please give Brendan or Cathy a call at 518.456.1134.

Marketing and Business Event

"The Exceptional Exhibitor: From Small Talk to BIG Business" – April 6, Albany
Tradeshaw season is upon us! Want the latest tips and tricks to make your time at the booth all worth it? Join SMPS Upstate NY for a highly interactive, communication workshop.

Attendees will learn:

- How to recognize if you're an exceptional exhibitor
- Common exhibiting mistakes and how to correct them
- Three key phases of exhibiting
- Fifteen communication strategies that you can implement immediately
- How to ensure return on investment (ROI) for exhibiting

Who Should Attend:

Exhibitors and vendors who seek to enhance their ability to connect with clients and prospects at tradeshows and conferences. Click [here](#) for a registration form.

AGC NYS PAC – Political Corner

Federal Primary Date – June 24, 2014

Due to a December 2013 decision by the U.S. District Court, the New York State federal primary date is June 24, 2014. Voters must register to vote in the federal primary by May 30, 2014. As always, you are encouraged to get involved and urge each of the candidates to support a long-term federal transportation bill. AGC NYS PAC will keep you apprised about the candidates and issues in the June 24th federal primaries. AGC NYS PAC does not contribute or endorse candidates in primaries.

Staff Contact: [Walter Pacholczak](#)

Key Congressional Primaries in 2014

Congressional District 1 – Incumbent Democrat Tim Bishop, is facing a challenge from Republican state Senator Lee Zeldin and attorney George Demos. Mr. Zeldin and Mr. Demos are engaged in a heated Republican primary.

Congressional District 13 – Elected in 1973, Congressman Charlie Rangel is facing a tough Democratic primary from state Senator Adriano Espaillat. This will be a close primary to watch because Mr. Rangel narrowly won in 2012.

Congressional District 21 – The race to replace retiring Democrat Congressman Bill Owens is heating up with Elise Stefanik and Matt Doheny seeking the Republican and Conservative lines, and Aaron Woolf seeking the Democrat line. Ms. Stefanik visited the AGC offices to discuss her campaign. Mr. Doheny narrowly lost this seat in 2012. The key date in this race is the April 15 FEC financial filing because it will determine the strength of the candidates and direct national attention to a potential Republican gain in Congress.

Congressional District 22 – Congressman Richard Hanna faces a challenge from tea-party Republican Assemblywoman Claudia Tenney. Mr. Hanna, a former contractor, is widely supported by the construction industry and businesses.

Staff Contact: [Walter Pacholczak](#)

Big Surprise - Big Money Dominates NYS Campaigns

An analysis by the New York Public Interest Research Group illustrates the influence of big donors in state-level candidates and party committees. The top five contributing associations are: SEIU 1199 (health care workers) - \$733,500; NYSUT (teachers) - \$717,343; GNYHA (hospitals) - \$686,388; NYSTLA (trial lawyers) \$578,710 and Empire Dental (dentists) - \$453,250. The rest of the list is primarily comprised of organized labor and wealthy individuals. AGC NYS PAC is not in the list of the top 150 contributors.

Staff Contact: [Walter Pacholczak](#)

AGC NYS AROUND THE STATE

Mike, Walter and Karen were in Utica for the Region 2 Membership meeting. Nearly 70 people attended and discussions with NYSDOT and Thruway were open and informative.

Washington D.C. – Mike, Karen and Walter participated at the annual NYRIC Day on Capitol Hill.

NYC – Walter, Mike and Joe attended a political event for Senator Pat Gallivan.

Cathy represented AGC NYS as an exhibitor at the Hard Hat Expo in Syracuse last week. Several of our members also had booths and many more visited the event.

Upcoming AGC NYS Education and Events

For more information and registration for any of these events please go to our website www.agcnys.org and click on Calendar <https://www.agcnys.org/calendar>. We now offer online registration for most events.

April

1st - AGC Supervisory Training Program (STP), Buffalo (On-Going)

15th - AGC Region 10 Meeting, Highway Members, Hauppauge

22nd - NYS Sales Tax Requirements For The Construction Industry

23-24th - Capital District Construction Career Days

28th - AGC Region 1 Meeting, Highway Members, Albany

May

8th - AGC Region 8/11 Meeting, Highway Members, Eastchester

15th - Region 6 Meeting, Highway Members, Hornell

20th - Region 4 Meeting, Highway Members, Rochester

June

23rd - 25th Annual Anthony S. Santaro Scholarship Golf Classic (Turning Stone, Verona)

July

17th - 20th - AGC Summer Membership Meeting (Sagamore Resort, Bolton Landing)

BUILDING

Architecture Billings Index - Small Improvement

After starting out the year on a positive note, there was another minor increase in the Architecture Billings Index (ABI) last month. As a leading economic indicator of construction activity, the ABI reflects the approximate nine to twelve month lead time between architecture billings and construction spending. The American Institute of Architects (AIA) reported the February ABI score was 50.7, up slightly from a mark of 50.4 in January. This score reflects an increase in design services (any score above 50 indicates an increase in billings). The new projects inquiry index was 56.8, down from the reading of 58.5 the previous month. The Regional averages: South (52.8), West (50.5), Northeast (48.3), Midwest (47.6). Sector index

breakdown: multi-family residential (52.5), commercial / industrial (51.9), institutional (49.6), mixed practice (46.6).

Staff Contact: [Brendan Manning](#)

HIGHWAY

AGC Co-Chaired Transportation Construction Coalition Launches National "Hardhats for Highways" Campaign

Get Involved at www.HardhatsforHighways.org

With the federal Highway Trust Fund projected to be unable to support any new highway, bridge or public transportation improvements in fiscal year 2015, the AGC co-chaired Transportation Construction Coalition (TCC) is launching a new national outreach campaign called “**Hardhats for Highways.**” This campaign – which was launched last week in Las Vegas at CONEXPO/CONAGG, one of the world’s largest construction trade shows, where more than 125,000 industry professionals are gathered – is designed to help educate Congress about the connection between local jobs and federal highway and transit investment.

Staff Contact: [Karen Morrison](#)

NYS Thruway – Use of Galvanized Reinforcing

The Thruway has moved to full galvanized reinforcing on their projects. Stainless Steel reinforcing will (often) be used on bridge decks. Both requirements will be made part of contracts via the use of Special Notes which will apply to standard pay items – not incorporated via a special spec or pay item.

NOTE that this applies to all concrete components – bridge structures, drainage structures and concrete pipe. Contractors must be sure to make the suppliers aware of the new requirements.

Staff Contact: [Karen Morrison](#)

Regional Membership Meetings – Region 10 and Region 1 being held in April

Region 10 will be the next stop for the 2014 Spring Regional Meetings. We will meet on April 15 for lunch at Mario’s Restaurant in Hauppauge. On April 28 we will be in Albany for the Region 1 meeting at the Desmond.

The meetings will vary between lunch and dinner meetings. For lunch meetings we will have lunch at 12 Noon and follow with the business session. For dinner meetings we will have a business session at 4:00 p.m., the reception at 6 p.m. and dinner at 7 p.m. NYSDOT, Thruway and other highway industry partners are invited to participate.

To register online please click on the meeting date below or if you would like to register via fax or email [please click here for the registration form.](#)

If you have topics of interest you would like to have discussed at the business session please contact Karen Morrison, Morrison@agcnys.org.

[April 15 – Region 10, Lunch – Mario’s Restaurant, Hauppauge](#)

[April 28 – Region 1, Dinner – The Desmond, Albany](#)

[May 8 – Region 8/11, Dinner – The Leewood Country Club, Eastchester](#)

[May 15 – Region 6, Lunch – Club 57 Restaurant, Hornell](#)

[May 20 – Region 4, Dinner – The Lodge at Woodcliff, Rochester](#)

Save the date for the fall meetings which are scheduled for the following:

10/16/14 – Region 3 - Breakfast

10/16/14 – Region 5 - Dinner

10/23/14 – Region 7 - Dinner

10/30/14 - Region 9 - Breakfast

More details will follow later in the year.

Staff Contact: [Cathy Newell](#)

HMA Density Testing Inspector Certification – 2014 Course Schedule

Asphalt paving Density Testing Inspectors on NYSDOT and NYS Thruway projects are required to be certified and carry active certificates. Certification must be renewed via exam every five years.

Full Course plus exam:

- May 1 & 2 - Wellsville
- June 12 & 13 - Newburgh

The 5-yr Re-certification (exam only) is held on the second day of each course.

Contact Tammy Woods Edwards for complete registration information:

WoodsTL@alfredstate.edu

Staff Contact: [Karen Morrison](#)

Principles of Quality Hot Mix Asphalt Pavement Construction

One-day course – 7.5 PDHs

April 16

Rochester, NY

Course Fee \$225 (includes a copy of Asphalt Institute's MS-22 Construction manual)

Register here:

http://www.asphaltinstitute.org/public/asphalt_academy/construction-of-quality-hot-mix-asphalt-pavements-seminar-2014-dates.dot?utm_source=POHMA_2014_3_3_14&utm_campaign=48ce2649bc-2011_Principles_Quality_HMA_Pavement_Construction&utm_medium=email&utm_term=0_2556fd625b-48ce2649bc-132262593

Constructing high quality asphalt pavements is the goal of our industry. You can learn to produce high quality pavements by learning the basic principles of hot-mix asphalt pavement construction and the inspector's responsibilities at the various stages in the construction process. You will develop a general understanding of hot-mix materials, production, placement and compaction operations. Extra attention will be given to mix placement and compaction.

Staff Contact: [Karen Morrison](#)

[AGC of America Seeks Participants](#)

The Federal Motor Carrier Safety Administration has issued a notice of proposed rulemaking to develop regulations requiring the use of Electronic Logging Devices (ELD) on trucks that operate in interstate commerce. The ELD would be used to enforce restrictions for on-duty time and driving time for truck drivers. Drivers that are required currently to log their hours manually would be required to do it by electronic device.

The Highway and Transportation Division's Regulatory Forum is establishing a task force to prepare comments to FMCSA and more broadly to discuss other options. We are looking for members with familiarity with the current rules that could assist AGC of America in putting together comments.

Let me know if you have someone who fits the bill. Please give me their contact information and I will pass it along.

Staff Contact: [Karen Morrison](#)

Register for the 2014 AGC Federal Contractors Conference

TCC Fly-in Legislative Visits on June 11

The **AGC Federal Contractors Conference** will be held June 10-12, 2014 at the Mayflower Hotel in Washington, DC. Attendees will hear directly from a host of headquarters representatives from a number of federal agencies about their upcoming projects, including:

- U.S. Army Corps of Engineers
- U.S. Naval Facilities Engineering Command
- U.S. Air Force Center for Engineering and the Environment
- Department of Energy (NEW)
- General Services Administration
- Department of Veterans Affairs
- Federal Highway Administration
- Federal Transit Administration
- Natural Resources Conservation Service
- Bureau of Reclamation
- And many more!

In addition, attendees will hear the latest on the Water Resources Development Act reauthorization process on Capitol Hill during the congressional transportation & WRDA briefing.

For more information and to register, go to www.agc.org/fedcon. Register by March 28 to save \$100!

Staff Contact: [Karen Morrison](#)

Intelligent Compaction

The FHWA Every Day Counts innovation of the month for March is intelligent compaction. Compaction is one of the most important processes in roadway construction, one that's needed to achieve high quality and uniformity of pavement materials to ensure long-lasting performance.

Intelligent compaction refers to the compaction of road materials—soils, aggregate bases, asphalt pavements—using a modern vibratory roller equipped with an integrated measurement system, onboard computer reporting system, GPS-based mapping and optional feedback control.

Not only can intelligent compaction improve the uniformity of road-building materials, it can also enhance operational efficiency by reducing the number of passes an equipment operator needs to make to achieve a specified density.

The Federal Highway Administration's Intelligent Compaction Technical Support Service Center is designed to help highway agencies and other stakeholders get started with intelligent compaction. The center offers information, telephone and email support, and training for agency and contractor personnel.

Staff Contact: [Karen Morrison](#)

U.S. DOT Likely to Delay Reimbursements this Summer

Administration to Send Reauthorization Plan to Congress in April

Recently, committees in the Senate and the House heard from the U.S. Secretary of Transportation Anthony Foxx and other Department officials about their FY 2015 budget submission, MAP-21 reauthorization, and how they intend to administer highway and transit programs considering the pending insolvency of the Highway Trust Fund (HTF).

Staff Contact: [Karen Morrison](#)

SAFETY

D.C. Circuit Neutralizes OSHA Anti-Preemption Rule in Response to ATRA Petition

(American Tort Reform Ass'n v. Occupational Safety & Health Admin., No. 12-1229)
A recent D.C. Circuit ruling goes a long way toward assuring that OSHA will not be able to use a new anti-preemption regulation to improperly sway judicial rulings on state failure to warn claims. The case arose in 2012 when OSHA, at the last minute of a major update of its regulations on the labeling of hazardous chemicals, inserted a provision into the final rule saying that even if a company fully complies with the new labeling requirements, it is still subject to personal injury lawsuits alleging that its warnings were not adequate. The American Tort Reform Association challenged this change to assure that state courts do not have to blindly follow this anti-preemption provision. State warning-based tort claims regulate warnings just the same as statutes and regulations, and OSHA's purpose for adopting standardized requirements for chemical labeling was to avoid a 50-state patchwork of workplace warning rules. The D.C. Circuit neutralized the preemption provision. While it allowed the rule to stand, the Court made clear that the preemption provision, while codified in the Code of Federal Regulations, is not binding on state courts. It said that the rule change was "nothing more than an interpretative statement" and not accorded any "weight in the adjudicative process." SHB's Tom Grever, Phil Goldberg and Cary Silverman represented ATRA in this case. The U.S. Chamber of Commerce, National Association of Manufacturers, American Petroleum Institute, and American Chemistry Council submitted amicus support.

Staff Contact: [Jim Redmond](#)