

Wisconsin Chapter NECA
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July 2008

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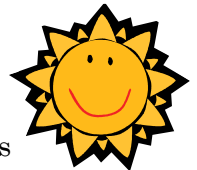


Inside this issue:

Floods are Personal to the IBEW in Iowa	2
Attorney Bob Kay's Letter	3
August 2008 Calendar	3
Winona Bridge to be Re-paired Soon	4
Code Books for Sale	4
Tom's Code Corner	4
Manpower Statistics	5

Still Time...2008 Summer Meeting

As you know, the 2008 Summer Meeting will be held July 24 – 26 at Eagle Ridge Resort. The turnout for this year's event is considerably lower than expected, and we do still have space available for anyone who would still like to register. It is a great facility and some of the finest electrical contractors will be there. Please contact Rachel or Shari at the NECA Office (608) 221-4650 for more information. And be sure to check next month's Watts News for a full report.



NECA Convention Registration Opens

NECA's National Convention and Trade Show will be held **October 4 – 7**, in the Windy City this year, which means we can attend the convention without the increasing hassle of air travel! It's a great opportunity to attend your first convention and learn firsthand why so many NECA members never miss one. There is also an opportunity to visit Chicago and tour some of the sites that make the city unique.

The convention opens with a reception on historic Navy Pier featuring music by the Pink Flamingos. Sunday's opening general session will feature a special performance by Second City, which continually spawns some of the nation's funniest entertainers. Monday will feature a Special Labor Relations Session, which will give attendees an update on current trends and allow for discussion on critical industry issues. Tuesday, the final general session meeting will feature broadcaster Bob Costas, one of the most knowledgeable sportscasters in the country, who will share his thoughts on the importance of fair play, strategic thinking and teamwork. The closing celebration will feature a performance by Ricky Skaggs and Bruce Hornsby at the Arie Crown Theater. Finally, attending the NECA Convention gives you an opportunity to network with electrical contractors from around the country and hear what opportunities and challenges they have encountered in the industry.



Registration is now open for the NECA Convention, and a complete convention booklet and registration form will be mailed to all member firms later this month. The "Early Bird" deadline this year is **August 8, 2008**, and registration and room rates increase after that date.

The flooding in the Midwest from June's rains was extensive, and in many cases reached new high-water levels. Among the hardest hit area was Cedar Rapids, which suffered extensive flooding on June 13 from the Cedar River and Iowa City, which flooded the following day. Many of the IBEW members lived along rivers or had family who were affected by the flooding. Local Union 204, which represents employees from Alliant Energy, had their union hall flooded out, and the officers were working out of the Local 405 office. Alliant Energy had several substations that were submerged in floodwaters as well. As of June 25, nearly 1300 blocks of downtown Cedar Rapids remained underwater and without power, and estimates were that it would be after July 4 before power could be restored.

The areas are only now beginning the extensive task of cleaning up and repairing or rebuilding structures that were damaged, but the IBEW is helping out. Local 405 has trained about 125 electricians on how to re-energize equipment that has been damaged by flood. The locals also intend to donate \$5,000 toward flood relief efforts.

Pre-Convention Seminar Opportunities

In addition to the technical and management seminars offered with the NECA Convention, there are some very worthwhile pre-convention seminars to consider, especially since the convention is in Chicago this year.

There are two lighting seminars offered this year; LED 101: Everything You Need to Know, is offered on Friday, October 3, from 8:00 to noon. The cost is \$110 for the four hour course. "Energy Solutions for Commercial and Industrial Lighting Design" will be held Saturday, October 4, from 8:00 to 5:00 and will focus on lighting designs for industrial, manufacturing and warehouse facilities. The cost is \$225 for the eight hour course.



The following NJATC Training Tracks are also offered prior to the convention: "Business Development Opportunities in the Solar PV Market" will be held Friday, October 3 from 8:00 to 5:00, and will address an overview of the PV systems, market opportunities, and requirements for installation of systems. The cost is \$225 for the eight hour course.

"Unlocking the Mystery of NFPA 70E PPE Compliance" is geared toward contractors, supervisors and safety professionals. The four hour course will be held Saturday, October 4 from 8:00 to noon, and the cost is \$110.

"Business Development Opportunities in Building Automation" is a four hour course offered Saturday afternoon from 1:00 to 5:00. The course features experiences from two NECA contractors who have successfully entered the Building Controls market. Learn about their successes and stumbling blocks they encountered as they became familiar with the market. The cost is \$110.

Each of these courses can be taken whether or not you are registered to attend the NECA convention, but it is an opportunity to get the education in connection with the premiere electrical trade show and convention in the country. You can register online at www.necaconvention.org, or call the NECA Chapter Office.

Immigration Woes Hit Wisconsin Too

Mention immigration to many Wisconsin residents and their first thoughts are the highly publicized problems of undocumented workers in California or Texas. The problem is hardly a concern to most Wisconsinites, right?

Actually, the tourism industry, agriculture industry, landscaping industry and construction industry all rely on an increased number of "seasonal" employees. The Wisconsin Dells businesses have been getting their help from abroad for many years, as has agriculture and landscaping. The problem in construction is newer, however it also exists. The U.S. Census Bureau estimates that 37% of foreign-born workers in Wisconsin are here illegally.

Immigrant workers, many from Mexico, are taking on the dairy industry too. As the industry has shifted from small dairy farms to operations that milk 24 hours a day, seven days a week, the larger operations rely more and more on immigration to help out. On farms with 500 or more cows, the number of Spanish speaking workers is beginning to outnumber the English speaking ones. Not to worry though, "leche" tastes the same as milk.

From the Desk of Attorney Kay



LIABILITY OF THE CONTRACTOR UNDER THE HOME IMPROVEMENT PRACTICES ACT

In the January 2007 edition of this publication I reviewed the Wisconsin Court of Appeals decision in Stuart v. Weisflog's Showroom Gallery, Inc. regarding the application of Chapter 110 of the administrative rules promulgated by the Wisconsin Department of Agriculture, Trade and Consumer Protection. The Home Improvement Practices Act (HIPA) provides homeowners with substantial legal remedies against contractors who misrepresent and fail to perform under home improvement contracts. The Court of Appeals decision rendered in favor of the homeowner was affirmed by the Wisconsin Supreme Court in March, 2008. In its affirming decision, the Wisconsin Supreme Court made interesting rulings:

1. Homeowners' claims are not barred by the statute of limitations until the running of six years from the homeowner's discovery of the misrepresentation or construction defect.
2. The HIPA provision providing for double damages applies to an entire damage verdict even if the HIPA violation is combined with additional wrongdoings that contribute to the homeowner's economic losses.
3. At trial, the circuit court is not to ask the jury to apportion damages between the homeowner's HIPA claims and other negligence claims.
4. The economic loss doctrine, which I have reviewed in prior issues of this publication, particularly dealing with the case entitled Insurance Company of North American v. Cease Electric, is inapplicable to a homeowner's claim under HIPA. The Court in Weisflog held that the economic loss doctrine does not apply to statutory claims, including those under HIPA, because of the overriding public policy of the legislation involving trade practices. The Court emphasized that the economic loss rule also does not apply to contracts primarily for services, but rather only when a product fails to meet the expectations of the purchaser. As you will remember, the economic loss rule holds that when a product fails to meet the expectations of a purchaser, the purchaser is left to the remedies found in the purchase contract and may not sue for negligence. That rule of law does not apply to HIPA claims.
5. Officers, representatives, agents and employees of a contractor may be held personally liable for HIPA violations. The Court emphasized that any homeowner suffering economic loss because of the violation of HIPA by any *person* may recover twice the amount of the loss, including reasonable attorneys fees. The Court held that a corporate employee may be personally liable for conduct which violates HIPA.
6. The contractor's liability for the homeowner's attorneys fees requires the determination of reasonable attorneys fees under such fee shifting statutes. In the Weisflog case, the homeowners sought approximately \$200,000 in attorneys fees, but the circuit court only awarded \$15,675.00. The Wisconsin Supreme Court reversed that holding and remanded the case back to the circuit court for a hearing at which the number of reasonable hours expended at a reasonable rate by the homeowner's attorney should be determined. The Court emphasized that there should be no ap-

(Continued on page 6)

August 2008

- August 6**
Madison Membership
Janesville-Beloit Membership
- August 7**
La Crosse Membership
- August 11**
Kenosha Racine Membership
- August 13**
Northeast-Fox Valley Memb.
- August 14**
Indianhead Membership
- August 21**
Wisconsin Valley Membership

Upcoming Meetings

- July 24-26, 2008**
Summer Meeting
Eagle Ridge Resort, Galena, IL
- October 4-7, 2008**
NECA Convention
Chicago, IL
- January 23-24, 2009**
Winter Meeting
Wisconsin Dells
- March 22 - 25, 2009**
Midwest Regional Spring Conf.
Kauai, Hawaii

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IRS Announces New Mileage Rate

The IRS has announced that the standard mileage rate for business miles will increase to **58.5 cents per mile** effective July 1, 2008. The increased rate is in effect for business miles driven during the period of July 1, 2008 through December 31, 2008, and is an eight cent increase from the January through June 2008 rate of 50.5 cents.

The deductible rate for moving or medical travel miles also increased by eight cents, to 27 cents per mile.

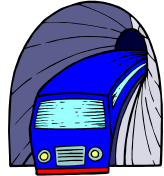
The IRS typically adjusts the mileage rates once per year, however, citing the rapidly rising costs of fuel and other costs such as insurance and depreciation, the change was made for the second half of the year.



Have you got a code question for Tom? Let us know and we'll ask him to answer it in a future newsletter.

Feds Charge Contractor on Big Dig Project

Federal prosecutors have charged the "Big Dig's" largest contractor, Modern Continental, of intentionally lying about the quality of their work on the tunnel system. The U.S. attorney's office accused the company of knowingly using the wrong epoxy to hold the concrete anchors on the project, including the ceiling section that collapsed and killed a woman in 2006. The company also allegedly knew about poor workmanship on walls in the Interstate 93 tunnel before portions of the walls blew out in 2004.



Modern Continental was charged with making false statements, falsifying time and materials slips, and wire fraud in federal court earlier in June.

If convicted of the charges, the company faces up to \$24.5 million in fines as well as restitution.

We Have Code Books

The Wisconsin Chapter NECA has a few 2008 NEC code books available for sale to members. The books have been custom spiral-bound so they will lay flat when opened, and are available while supplies last for \$60 each. The books will be sold on a first-come, first-served basis to NECA members only.

To order, contact Rachel at the NECA Chapter Office, 608-221-4650.



Winona Bridge Repairs Set to Begin

Minnesota Department of Transportation officials say repair work will soon begin on the Hwy. 43 bridge over the Mississippi River at Winona, which was closed for 11 days before reopening to cars, pickups, vans, SUV's and emergency vehicles. The bridge was found to have up to 36 gusset plates with corrosion similar to the defect found on the I-35W bridge that collapsed in Minneapolis last summer. The closure meant thousands of commuters had to travel dozens of additional miles to other Mississippi River bridges, and the bridge has remained closed to trucks and pedestrian traffic.

Tom's Code Corner

Question: I installed open recess trim over a whirlpool located in the bathroom of a house. The inspector says that the trim must be listed for damp locations. The height from the top of the whirlpool to the ceiling is 7 ft 3 in. Is he right?

Answer: The inspector is correct. NEC 410.4(D) indicates that the area from the top of the tub up to a height of 8-feet above the rim is a damp location. If the tub has a shower head, the same zone is a wet location.

MANPOWER STATISTICS

For the Month of -- May 2008

Local Union #	14	127	158	159	388	430	577	890	TOTAL
	=====	=====	=====	=====	=====	=====	=====	=====	=====
Local Contractors: NECA	8	4	3	18	5	5	2	6	51
Non-NECA	36	10	15	19	14	15	10	17	136
Total Local Contractors:	44	14	18	37	19	20	12	23	187
Traveling Contractors: NECA	10	6	5	3	5	4	4	6	43
Non-NECA	6	11	9	5	1	4	0	5	41
Total Traveling Contractors:	16	17	14	8	6	8	4	11	84
TOTAL # OF CONTRACTORS - LOCAL AND TRAVELERS:	60	31	32	45	25	28	16	34	271
Contractors More Than Two Months Delinquent in N.E.B.F.	1	1	0	1	1	0	0	0	4
Total Number of Contributing Contractors in Area:	61	32	32	46	26	28	16	34	275
Employees: NECA	280	47	158	778	216	45	158	206	1888
Non-NECA	208	83	232	94	57	65	60	78	877
TOTAL EMPLOYED:	488	130	390	872	273	110	218	284	2765

<u>Union #</u>	<u>NECA Division Name</u>
127	Kenosha Division
158	Northeastern Division
159	Madison Division
388	Wisconsin Valley Division
430	Racine Division
577	Fox Valley Division
890	Janesville-Beloit Division
14	Indianhead/La Crosse Divisions

NOTE: These figures only reflect employees of contractors not more than 2 months delinquent in their N.E.B.F. payments.

Construction Wages Increase, But CPI Increases More

Average hourly earnings in the construction industry rose by 10 cents in the month of May to \$21.57, while the average weekly construction earnings increased by \$10.30 per week. The average hourly earnings rose by 3.5 percent from May 2007 to May 2008. The consumer price index (CPI) increased by 4.2 percent for the same period, due mainly to greatly increased fuel costs.

The good news is that the CPI gain for the first five months of 2008 is behind the gain experienced for the same period in 2007, rising just 2.3 percent this year compared to 2.4 percent in 2007. And while construction wages saw an increase for the period, the average earnings in all industries fell .4 percent in May.

From the Desk of Attorney Kay (continued)

portionment of damages between the HIPA claims and other negligence claims in determining the attorney fee award, and even if the case was taken on a contingency fee basis, the determination of the contractor's liability for the homeowner's attorneys fees should be made on an hourly basis, not on a contingency fee basis.

Electrical contractors should be sensitive to the broad relief provided by HIPA when performing under a "home improvement contract" which may be oral or written, and provides aggrieved homeowners discovering construction defects and building code violations which may constitute misrepresentations by the contractor with double damages, plus the homeowner's reasonable attorneys fees incurred in pursuit of the legal claim against the contractor or its employees.



CLRC Survey Results Are In

The Construction Labor Research Council (CLRC) recently surveyed nearly 6,000 union contractors about labor shortages, what they are doing to correct the problem, and what impact they predicted the labor shortages would have on their specific industry.

The results are in, and "electricians" were listed fifth on the "Most Wanted" list of trade shortages. In 2007, the Bureau of Labor Statistics published a report that projects by the year 2014, the national need for electrical workers will increase to more than 734,000, which represents 78,000 more employees than are currently in the work force. The average age of construction workers in the US is now 47 years old. Electrician ages are similar to the general construction industry, meaning there is a growing need to train new employees to fill the gaps left as they leave the workforce. Contractors in many areas of the country are already feeling this shortage and are coping by working schedules of more than 40 hours per week, many times working 5-10's to complete jobs. One third of contractors who responded indicated that they have adequate staffing for their projects right now, so there is time to make corrections now to prepare for the future. The bottom line is that the need for new electrical workers is even greater than before, despite the slowdown in construction work right now.

Using Our Waste Coal to Make Energy

As oil prices remain at record-high levels, there is a push to develop other ways to produce our own supply, including a proposed string of new power plants that would burn waste coal from played out mines. The waste coal, known as "gob", is piled in mounds near the mines now, and leaches iron, manganese and aluminum into soil, and acid into groundwater and watersheds. There are currently 18 power plants using this material already, primarily in Pennsylvania. However, there are another 12 new plants proposed in Pennsylvania, West Virginia, and Kentucky. One in West Virginia would also capture the coal ash to produce cement and insulating bricks. The downside to this "free energy" fuel is that it is much less efficient than coal, and therefore, the plants use more waste coal.

Waste coal contains considerably more mercury and higher levels of chromium and lead than bituminous coal. Anytime coal or waste coal is burned, products of incomplete combustion (PICs) are created, and the potential toxicity of the PICs is uncertain. Finally, for every 100 tons of waste coal burned, there will remain nearly 85 tons of coal ash to dispose of. One of the proposed plants in West Virginia plans to capture the coal ash and turn it into cement and insulating bricks, however, the cost for this additional step may prove to be prohibitive.

Although environmentalists are unhappy about the increased air pollution from the waste coal, it does provide potential for states to clean up these eyesores left behind once the mine was abandoned.

