

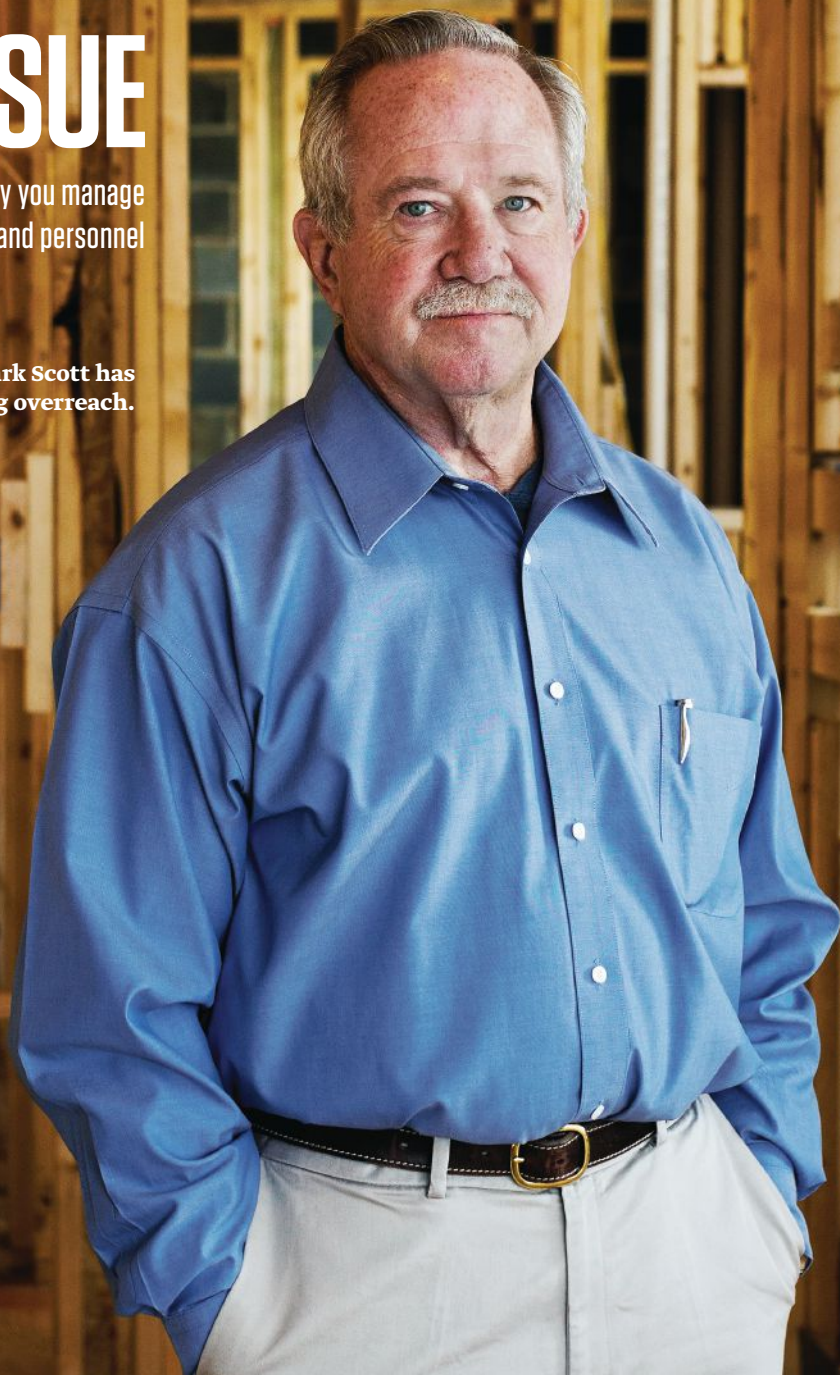
remodeling

YOUR TOOLBOX FOR SUCCESS

THE REGS ISSUE

How new rules will change the way you manage
your jobsites, offices, and personnel

Maryland remodeler Mark Scott has
big concerns about reg overreach.



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Fall protection systems will be an area of focus for OSHA

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Managing a remodeling business means keeping your jobsites safe, your employees properly compensated, and all of your paperwork in order. From overtime to OSHA, from fine increases to fall protection, we've got the rundown on the major rule and regulation changes headed your way in 2016—and what you should be doing to prepare.

ONLINE NOW



Have you downloaded your local market's Cost vs. Value report yet? You'll find the numbers for 30 common remodeling projects in 100 different markets, plus videos and interactive graphics, by visiting costvsvalue.com.

And be on the lookout for Lauren Hunter's annual new-product videos shot at IBS/KBIS 2016.

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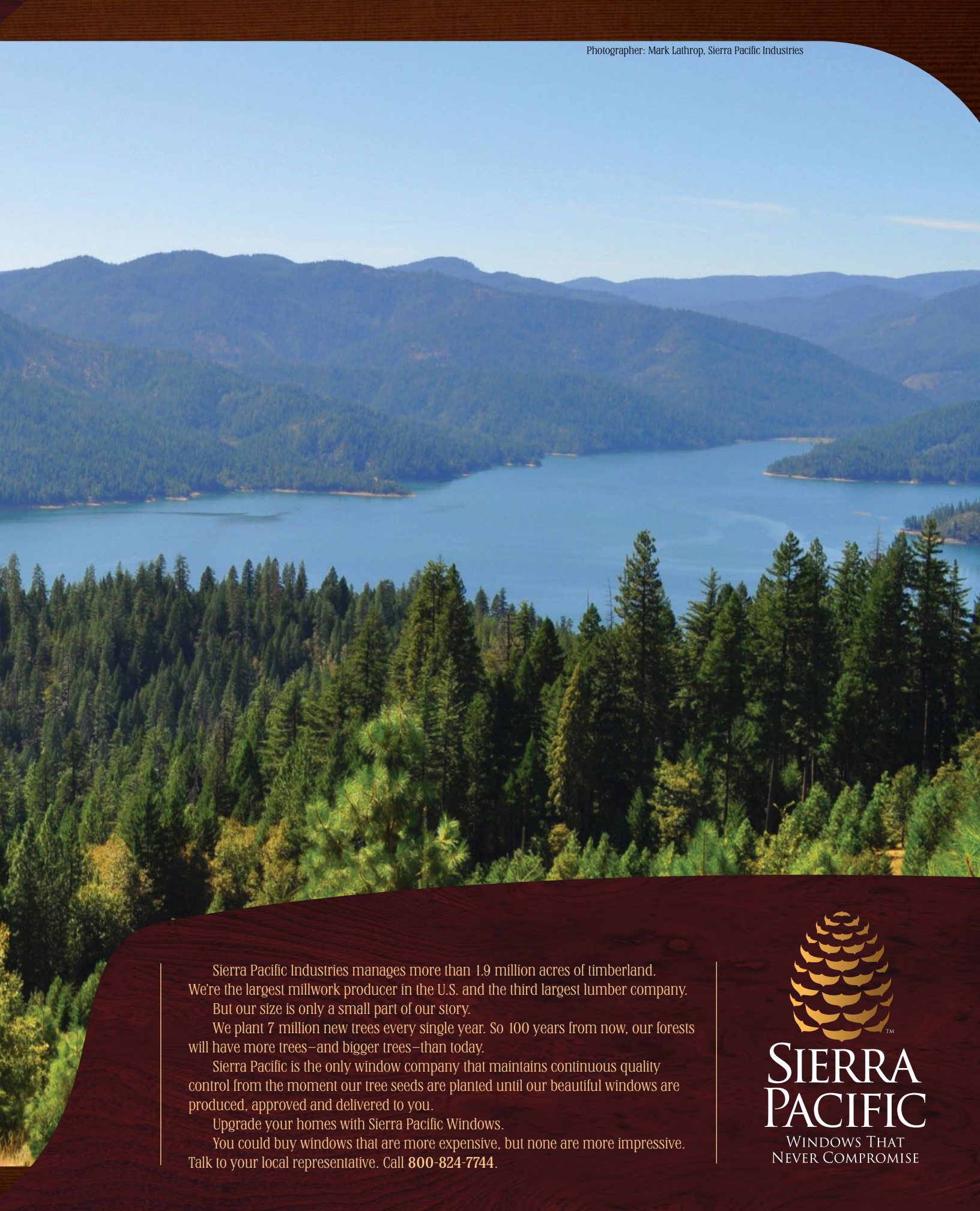


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When you live on Capitol Hill in Washington, D.C., and spend several days shoveling one of the biggest snowfalls on record, as I did last month, your thoughts naturally turn to the political. If you're a Democrat, you thank all your taxpayer-paid public services for plowing the roads and keeping the hospitals open. If you're a Republican, you give thanks that the storm shut down the federal government for several days and thus temporarily kept the feds from inflicting more grief.

But the snowstorm also produced something else: good feelings among all the people I saw shoveling elderly neighbors' walks and generally enjoying the opportunity to share in the winter wonder. One stranger was so happy she high-fived me as we passed each other in the middle of a snowy street.

Experiencing crises together remind us that, at its heart, government is a formalized product of what happens after a community is born. For all that this nation celebrates mavericks, it also succeeds because we've agreed to rules in which the strong give consideration to the weak. If we didn't think that way, auto drivers would be running over thousands of pedestrians at intersections every day.

Of course, world history also is full of examples of government regulation run amok. Citizens are right to cherish their freedoms.

And that brings us to this month's issue. Whenever I attend a remodelers' meeting devoted to regs, attendees' exasperation levels rise so high that it's easy to question why they'd ever want to be in this business.

But I also notice several other things that encourage me. The first is that remodelers almost always agree with the core concerns that prompted the regs. Unlike, say, whether global warming is a threat, most remodelers can come to a consensus that exposure to lead paint is a bad thing. Remodelers want their employees to work in a safe environment, not in deadly sweatshops. They believe in building safe housing and putting in an honest day's work for a decent wage.

That general support for health and safety means that most complaints I hear about the regulatory environment don't question whether a reg should exist at all, but rather how it should be implemented. The challenge thus becomes finding a way to achieve the general objective. To that end, you should note all the qualifiers I put into this and the previous paragraph—"almost always" and "most" and "general support." That's because one of the big problems remodelers face is that a small number of bad guys are poisoning our reputation. The scams and outrages committed by these con artists and shoddy contractors leave regulators with little choice but to write rules that lots of remodelers regard as overkill.

On the other hand, I also could use those same qualifiers to describe remodelers' involvement in the governmental processes that create those regulations. Most remodelers don't belong to their local professional communities—chapters of the National Association of the Remodeling Industry or NAHB Remodelers. An even greater number don't reach out to their local, state, or federal governments to help them write rules that achieve commonly desired goals in an effective way. I just about always hear more complaining than constructive proposals.

Professional remodelers' livelihoods depend on them being in a community; otherwise, you wouldn't have any customers. And what you do helps make that community better. By influencing how regs are written and enforced, you can do even more.

A stylized, handwritten signature in black ink that reads "Craig".

Craig Webb, Editor-in-Chief
cwebb@hanleywood.com



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REGS UPDATE

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Fall
Protection



Powered
Industrial
Trucks



Hazard
Communication



Ladders



Scaffolding



Electrical
Wiring
Methods



Respiratory
Protection



Machine
Guarding



Lockout/
Tagout



Electrical -
General
Requirements

\$18M

IN PENALTIES WAS LEVIED
ON ROOFING CONTRACTORS
IN FY 2013-2014

\$1.2M

IN PENALTIES WAS LEVIED ON
RESIDENTIAL REMODELERS
DURING THE SAME PERIOD



6,721

citations were written
for fall protection in 2015

4,679 WORKERS WERE KILLED ON THE JOB IN 2014

That's about **90** a week or more than
13 deaths every day. 17% of these fatal
injuries were employees of contractors.

LEADING CAUSES OF CONSTRUCTION DEATHS



39.9%
Falls



8.5%
Electrocutions



8.4%
Struck by object



1.4% Caught-in
or -between hazards

FATALITIES OVERALL ARE DECLINING

Worker deaths in America are down on
average, from about 38 worker deaths a day
in 1970 to **13 a day in 2014**. Worker injuries
and illnesses are down from 10.9 incidents per
100 workers in 1972 to 3.2 per 100 in 2014.

FINANCE

Don't Mess with Uncle Sam

Their penalties deliver a second dose of financial pain

BY LESLIE SHINER AND MELANIE HODGDON

It's hard to compete against contractors that skirt the law. You might think about doing the same, but it will catch up to you.

Don't Mess with the Government

Many contractors try to save money by classifying their workers or supervisors as subcontractors to avoid having to pay payroll taxes, worker's compensation, and benefits. However, this can backfire in a multitude of ways.

When you have no more work for this "subcontractor," he often files for unemployment. Then you are caught in a nasty audit from your state employment office. If you get audited by the state and it determines your subs really are employees, then you have to pay the state taxes, including the withholding. You can get that back only if you can prove your subs paid taxes on their

earnings—not an easy task. And finally, once the state is done, they turn you over to the IRS to start the process all over again!

If the "subcontractor" gets hurt on the job, you get caught in a nasty worker's compensation audit and have to pay back-workers' comp for 3 or more years for this subcontractor. And finally, if you and your "subcontractor" get into a nasty argument (and all goodwill flies out the window), he will probably turn you in to the state, the IRS, the worker's compensation bureau, and anyone else he can think of to make your life miserable.

Pay on Time

In addition to the costs and inconvenience associated with being audited, it's not difficult to accumulate other unnecessary fees and penalties by:

- carrying a balance on your credit card
- paying bills late
- paying payroll taxes late
- overdrawing your bank account

Adding Insult to Injury

Let's say that you've neglected to pay your payroll taxes on time, or received parking tickets. Although the associated fees can be staggering (especially for payroll-related errors), the sad fact is that these fees aren't tax-deductible. In addition to your having to pay them, they won't even reduce your taxable bottom line.

Pay Attention

Assign somebody in the company as a "compliance officer" to keep you out of trouble. Create a checklist that should be reviewed periodically to confirm that you are operating within the law and spending as little as possible avoiding fines and penalties. Help your compliance officer get training to learn the laws of your state, including OSHA laws, RRP rules, insurance minimum coverage required, and other regulations that can cost you money.

Can't afford to have a lawyer on retainer? There are many pay-as-you-go legal services, such as Rocket Lawyer; these can be a less expensive alternative to hiring a lawyer.

It's costly enough paying for necessary production and overhead costs. Avoid shelling out more bucks by understanding your obligations under the law and paying attention to the rules and regulations.—*Leslie Shiner, owner of The ShinerGroup, and Melanie Hodgdon, president of Business Systems Management, co-authored A Simple Guide to Turning a Profit as a Contractor and provide management consulting for contractors.*

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FINANCE

Not-So-Over Easy Accounts

Use your over/under billings counts as an early warnings indicator

BY JUDITH MILLER

I've begun to notice a pattern with remodeling clients whose income accounts were showing a decrease in "overbillings"—money in the bank from clients that's to be used for promised work.

"Have your sales been declining in recent months?" I would ask. "Yes," the remodeler invariably would reply, and then add, "I've been so busy keeping up with the work that I haven't had enough time to sell."

That remark clearly is a warning sign that the remodeler needs to note, but how? Try this: Start watching the trend line of monthly over/under billings as a percentage of year-to-date volume.

You always want to be overbilled, because it means you're operating with the customer's money when you buy materials, hire subs, and generally do work for that client. It's the opposite of "underbilling," which occurs when you're shelling out time and

money doing work that hasn't been paid for by the customer ... yet, if ever.

Note that total income/volume should reflect earned income, not billed income. Bill often, bill lots, but don't confuse the amount you're billing with true earned income. True earned income relies on understanding the difference.

For years, I've encouraged my clients to track over/under billing as part of WIP—the Work in Progress report championed by Remodelers Advantage. WIP is an accounting method that helps you know on any given day how your business really is doing because it takes into account the flow of business you've got underway.

Smart clients like Andy Haste of Riverside Construction also use WIP accounting to predict the amount of total future

(continued on page 14)



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volume. Watching over/under billing trends also is a forecasting tool because it's a leading indicator—a signal of where your business could be heading.

Let's start with a benchmark. Strive to have overbilling dollars total at least 10% more than what you've billed that month. Put another way, overbillings should hover at 10% of any given period's volume; if you want to produce \$1,000,000 in volume and maintain 10% overbilling, then your billings for produced work have to be \$1,100,000, which represents 110%.

If overbilling as a percent of total revenue declines, it could be that the volume of sales in general—and upfront deposits in particular—have been falling relative to the past and/or to your goals. Likewise, if overbilling as a percentage of revenue goes up, you likely can thank an increase in sales and upfront deposits.

Let's see what this might look like in practice. Scenario A shows a six-months' income statement/profit and loss for a company whose monthly billings remain high but where the over/under billing is declining.

SCENARIO A:	Where monthly billings remain high but over/underbillings decline						
	January	February	March	April	May	June	6 MO TOTAL
Income - Remodeling Billings	138,888	138,888	138,888	138,888	138,888	138,888	833,328
Income - (Over)/Under Billing Adjustment	(13,889)	(12,500)	(11,111)	(9,722)	(5,556)	2,778	(50,000)
Total Earned Income	124,999	126,388	127,777	129,166	133,332	141,666	783,328
(Over)/Under Billing as % of Billings Income	10%	9%	8%	7%	4%	-2%	6%

SCENARIO B:	Where the company realizes the danger and thus, increases sales and overbillings						
	July	August	September	October	November	December	6 MO TOTAL
Income - Remodeling Billings	138,888	138,888	138,888	138,888	138,888	138,888	833,328
Income - (Over)/Under Billing Adjustment	(1,389)	(5,556)	(12,500)	(13,889)	(15,278)	(15,278)	(63,888)
Total Earned Income	137,499	133,332	126,388	124,999	123,610	123,610	769,440
(Over)/Under Billing as % of Billings Income	1%	4%	9%	10%	11%	11%	8%

Overbilling shows on the accounts as a negative number because, again, it represents money you've pocketed for work you haven't done yet. In January in the scenario A, it represents 10% of monthly volume. In February, the overbilling number begins to decline, until in June it has reversed itself and shows a positive number—i.e., an underbilling. In the case of Scenario A, this indicates that the company has paid for work done on the client's jobs but not been able to bill. You get a positive number when current jobs have spent the upfront deposit money without signing up new jobs and receiving new deposits.

Underbilling is always a risky situation, especially when you're doing time and materials (time/cost) billings. As these jobs near the end of the project, the potential to not receive the final payment increases significantly.

Scenario B illustrates what happens when the company starts

to sell again, take upfront deposits, and thereby increase overbillings over the course of the six months. In this case, the old jobs that finished up in June/July were being followed in the pipeline by new jobs to be performed in the second half of the year. The fact that overbillings grow through the second half of the year show that this remodeler has increased her focus on sales.

Knowing all this, you now can look at your over/underbilling number as a percent of billings monthly to look forward. Do you have enough new work to finance completion of old jobs? Are sales meeting expectations? Set up your over/underbilling procedure for the end of December 2015 and consistently enter the adjustment every month and track that percentage against the 10% goal. If it starts to decline, you need to start selling!—*Judith Miller is a Seattle-based business consultant and trainer, and a facilitator for Remodelers Advantage.*

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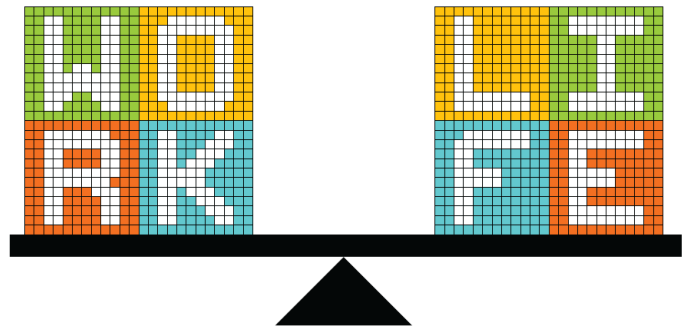
Balancing the Scales

If work is taking over your personal life, use these four tips to keep it in check

BY VICTORIA DOWNING

Are you feeling burnt out? Is working 60, 70, or even 80 hours a week starting to take its toll? If you're finding it more challenging than ever to juggle the demands of your career as well as the rest of your life, you're not alone. Work-life balance is a challenge for all of us. Whether it's because you're understaffed and have way too many hats to wear or you simply love to do so much that you just can't unplug, it's critically important that you make the effort to add a little more life into your day. So here are four quick tips to get you pointed in the right direction.

Number 1: Discover what's important to you. What makes you feel balanced and fulfilled? Is it more time with your family? A broader social life? Exercising and feeling healthy? Learning new things? Once you figure this out, write it down and post it where you can see it every day so that every time you're tempted



to answer that one last email or write just one more letter, you can look up and remember all the important reasons you want work-life balance in the first place.

Number Two: Set boundaries—and then respect them. You know when your friends or family need more of you and you probably intend to give it to them, but it's easy to let your personal relationships slide when that next email dings. So start by setting boundaries for yourself. For example, no checking email once you get home; no client meetings in the evenings or on weekends; no more than two hours of work on a Saturday morning—you get the gist. Remember, your job is not forever, but your relationships with people last a lifetime. So don't give all of your time to your clients; your family and friends also deserve at least some of your precious time. Once you know what your boundaries will be, write them down and share them. Then, stick to those commitments. The more you respect these boundaries, the more you'll see those around you respecting them, too.

Number Three: Get organized. Time is the most valuable commodity in life: It's the one thing you can't buy more of. Focus on those activities that have the most impact on your business and don't allow yourself to get bogged down in busy work. Put your heart and soul into your work during office hours. At the same time, plan holidays, surprise your significant other, go to a football game with the kids, and enjoy that part of your life every day as well. For most of us, this requires some serious discipline, but it can be done.

Number Four: Unplug. Push yourself to focus on the moment by unplugging small devices. To get started, do it in phases. For example, don't bring your cell phone to the dinner table. And when you're on vacation, be on vacation—don't be looking at your laptop.—Victoria Downing is president of Remodelers Advantage, an organization dedicated to helping remodelers build their businesses.



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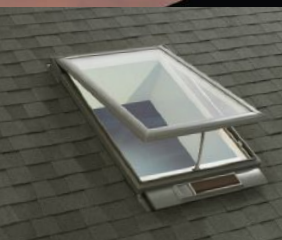


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OPERATIONS

Question Everything

To understand your clients' satisfaction level, don't be afraid to check in early and often

BY HUGH STEARNS

Surveying clients is one of our most important business tools. It provides insight to fuel growth and improve customer service. It is also where we get our best marketing material.

A couple of years ago at a Remodelers Advantage Summit, I heard Geoff Graham of Guild Quality speak. Geoff is a dynamic speaker and runs a great company that provides third-party surveying for remodelers. After hearing him speak, I went home and canceled our contract with them.

Why did I do this? Because after hearing Geoff speak, it became clear to me how important client surveying is. I ended our contract not because Guild Quality was doing anything wrong—far from it. They delivered such great value that I had taken this

important process for granted. I needed to bring it in-house for a time to gain a visceral feel for it and to expand its application. It was never our intention to stop using Guild Quality for long, and they are an important part of the overall system we've developed.

For us, surveying starts with the initial sales call. Showing prospective clients positive comments from past clients creates trust. Right off the bat, they know that we are a company capable of creating raving fans. That's the kind of company everyone wants to work with.

The designer surveys the client at every design meeting and once construction starts, the production manager does so at every weekly client meeting. In order for the client and our team members to be comfortable, there needs to be setup in terms of letting the client know what to expect.

If this seems like an absurd amount of surveying, understand that in the design and construction phases this is one question. The question is basically the same question that many doctors ask their patients: "From 0-10, what is your level of pain at this point in the process?"

In order to give clients a more concrete sense of how to answer this question, we encourage them to think about it as how likely they would be to recommend us at this time, but it is important to make the question about them and not us. The information that we get is invaluable for our ability to proactively address issues. It's not uncommon for us to think that things are going great and then to hear that the client's happiness level has slipped. If we had not been tracking this information, we would not know this.

Most often, there is not one point causing the slip—it is an accumulation of the little things, such as having a larger flow of people in the house during subcontractor-intensive times in a project, when there is more noise such as during demolition, or when a bit of dust gets left behind. Nonetheless, knowing that there has been a slip allows us to probe a little deeper to better understand why it has happened. Just the act of noticing and asking questions provides some reassurance. Often we can provide a specific remedy, like added cleaning; other times, it is simply a matter of providing a little more empathy, and maybe a gift card for a dinner out.

To track information across individual jobs and across types of jobs, we use an Excel spreadsheet. Without tracking, patterns cannot be recognized.—*Hugh Stearns is the owner and founder of Stearns Design-Build in College Station, Texas.*

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REGULATIONS

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Well Regulated

The year ahead is promising major changes for remodelers, with new rules and policies that will require you to pay extra attention to everything from jobsite safety to your payroll structure. Here's what to expect from OSHA, the Department of Labor, and more—and expert advice on how to stay ahead of the regulatory curve. / **edited by Charles Wardell**

Photo: Eli Meir Kaplan



Site Lines Remodelers, like Maryland-based Mark Scott, pictured here at left, will need to keep a close eye on subs and employees' working conditions under new rulings

Labor Pains

The rules for managing your employees might be getting a lot more complicated / **by Bill Atkinson**

If the costs imposed by the EPA's lead paint rule and an ever-expanding array of safety directives from OSHA weren't enough, two other federal agencies are producing new regulations, proposing new rules, and issuing new interpretations of existing regs that could significantly alter how you do business. Some of these changes from the National Labor Relations Board and the Department of Labor will place your relationships with subcontractors under scrutiny. Others, which should take effect this year, could force you to choose between raising salaries for some of your employees or begin paying them overtime.

REDEFINING SUBS

An August 2015 ruling by the National Labor Relations Board (NLRB) may end up requiring many remodelers to terminate relationships with some of their subcontractors and to bring the work in-house.

Remodelers have been reluctant to expand their payrolls in recent years, and have turned to using more contractors and subcontractors to meet their needs. The NLRB rule, passed in a 3-2 decision, takes aim at that trend. It says that companies can now be held responsible for labor violations committed by any subcontractor that they hire.

One advantage to hiring subs was that employers were not responsible for the employees of the subcontractors: They were only responsible for employees whom they directly hired and who were, therefore, under their direct control. For example, employers did not have the power to set hours, wages, benefits, or other employment arrangements for the employees of the contractors or subcontractors they hired.

Under the new NLRB ruling, two legally separate companies, such as a remodeler and a subcontracting firm whose services the remodeler uses—a roofing company, for example—can be considered “joint employers” of one employee doing one job, even if the remodeler does not have control over that employee's hours and wages.

According to the NLRB ruling, an employer could be considered a “joint employer” if it has indirect control, or the potential to exercise control, over a contractor's or subcontractor's employees.

There are several questions remodelers can ask themselves to determine if and how this ruling will affect them. Here are three of the most important:

Photos: Eli Meir Kaplan

- Is the work being contracted or subcontracted an integral part of your business?
- Do your supervisors direct the sub's employees?
- Do you give a contractor or subcontractor so much work that they do little or no work for anyone else?

If your answer to any of these questions is yes, it can be cause for concern related to the new NLRB ruling.

One part of the rule that won't affect most residential remodelers is unionization. In the past, employers have avoided collective bargaining requirements by using employees hired by other firms. Now, with the NLRB ruling, companies using workers hired by other businesses will be responsible for labor violations claimed by the employees of those businesses, and could be required to bargain with unions that represent those employees.

More concerning is a provision that allows these employees to protest unfair working conditions and that places responsibility for those conditions on the contractor and subcontractor. This may lead some remodelers to scrutinize how their subs treat employees, and even to cut ties with some subcontractors because they don't want to have to be responsible for labor complaints by those firms' employees.

"Because of the array of obligations and liabilities that attach with a finding of joint employer status, [the NLRB decision] would lead many employers to significantly alter or limit the contractual agreements into which they enter," says Randy Johnson, a senior vice president with the U.S. Chamber of Commerce.

Although the decision from the NLRB is now law, it's not clear how it will be enforced, says Ted Meyer, a shareholder in the Houston office of Ogletree, Deakins, Nash, Smoak & Stewart, P.C., an employment law firm. "It's unclear whether the courts or other agencies will follow it," he says.

Still, according to Meyer, to be on the safe side remodelers should review their contractor and subcontractor agreements and revise them to minimize any contractual right to control the actions of the contractor's or subcontractor's employees. "The NLRB will look beyond actual control to the potential right to control to determine whether two entities are actually 'joint employers' of the same employee," he says.

How are remodeling contractors responding to the new ruling? The rule's captive sub prohibition is the easiest to grasp, and it should come as no surprise that larger firms are already on board. "We are exceedingly careful about this and always have been," says Julia B. Spence, vice president, human resources, for the Neil Kelly Co., a Portland, Ore.-based remodeling firm with 203 employees. "Those we hire as independent trade contractors are exactly that—people who have businesses of their own, have

multiple clients, and have all of the licensing, bonding, and insurance required to be in business. To the best of my knowledge, we have no trades that are not official and legally in business. We ask for quite a bit of documentation before we accept them for our 'Approved Trades' list from which our salespeople and project managers may obtain quotes."

Some smaller remodelers also prefer to avoid the liability. One of these is Mark S. Scott, president of MARK IV Builders, a Cabin John, Md.-based remodeling and design/build firm with 10 employees that specializes in whole-house remodels, new additions, and master suites. He says that using "captive subs" has never made much sense. "The penalties are harsh, making the little bit of money you can save by not putting someone on the payroll not worth the risk," Scott says. He admits that playing by the rules forces him to charge more for his services, but doesn't have much sympathy for contractors who say that their market won't support that. "That tells me that they have to learn how to sell and to properly manage their businesses."

NEW OVERTIME RULES

An updated regulation from the Department of Labor (DOL) is scheduled to go into effect sometime this year and could have a big impact on some remodelers' compensation structures.

Currently, employers are not required to pay overtime to certain managers and administrators if they work more than 40 hours a week and are classified as salaried employees, as long as they earn more than \$23,660 per year—about \$455 per week.

Those numbers are about to change. The DOL has introduced a rule that will more than double that wage floor. The exact amount hasn't been determined yet, but most experts put it at a little over \$50,000. In other words, any employee currently classified as a manager or administrator who is paid a salary, and therefore exempt from overtime, will soon need to earn a that \$50,000+ per year minimum in order to keep the overtime exemption.

Those with lower annual salaries will need to be re-categorized as non-exempt, or hourly, meaning that employers will have to pay overtime for anything over 40 hours per week. The DOL estimates that 4.6 million employees would be affected. Other organizations, such as the Economic Policy Institute, estimate as many as 15 million.

Companies with employees who fit this category have two choices. They can start paying those employees hourly and pay overtime for work over 40 hours per week, or they can increase salaries to the new minimum needed to maintain the overtime exemption. Employers with salaried workers



The NLRB will look beyond actual control to the potential right to control to determine whether two entities are actually 'joint employers' of the same employee," predicts Ted Meyer, a Houston attorney specializing in employment law.

who earn \$30,000 or \$40,000 per year are unlikely to want to pay an extra \$10,000 to \$20,000. Instead, most will likely convert those employees to non-exempt status and keep a closer watch on the hours worked.

While there will be problems for employers when this rule takes effect, the shift from salaried to hourly status could also derail employees from career tracks they consider important to their futures. In fact, Scott predicts that the most likely victims will be ambitious young managers who are discouraged from working the extra hours needed to advance in the business because their employer don't want to risk the liability of overtime wages.

"I've never worked a 40-hour week, but always did extra work even though I wasn't asked to," says Scott. "My commitment to improving myself helped me move up the ranks quickly, save money, and ultimately start my own business 33 years ago. That is going to be a lot harder with the government tying everyone's hands." He believes that the overtime requirement will lengthen the time it takes for a hard-charging \$35,000-per-year assistant superintendent to move up to greater responsibility and higher pay. Employers might also centralize oversight responsibilities with higher-level managers, thus cutting down on the number of pathways for lower-level managers to advance their careers.

If remodelers are forced to pay higher salaries or overtime they will, of course, have to find ways to make up the costs. In a recent NAHB member survey, 55% of respondents said they would have to reduce or eliminate employee bonuses, while one-third would reduce or eliminate benefits. "If this goes into effect it will be a big change for everyone," says Scott.

Sources connected with the DOL are confident that it will go into effect, though they don't agree on the exact timetable. "The

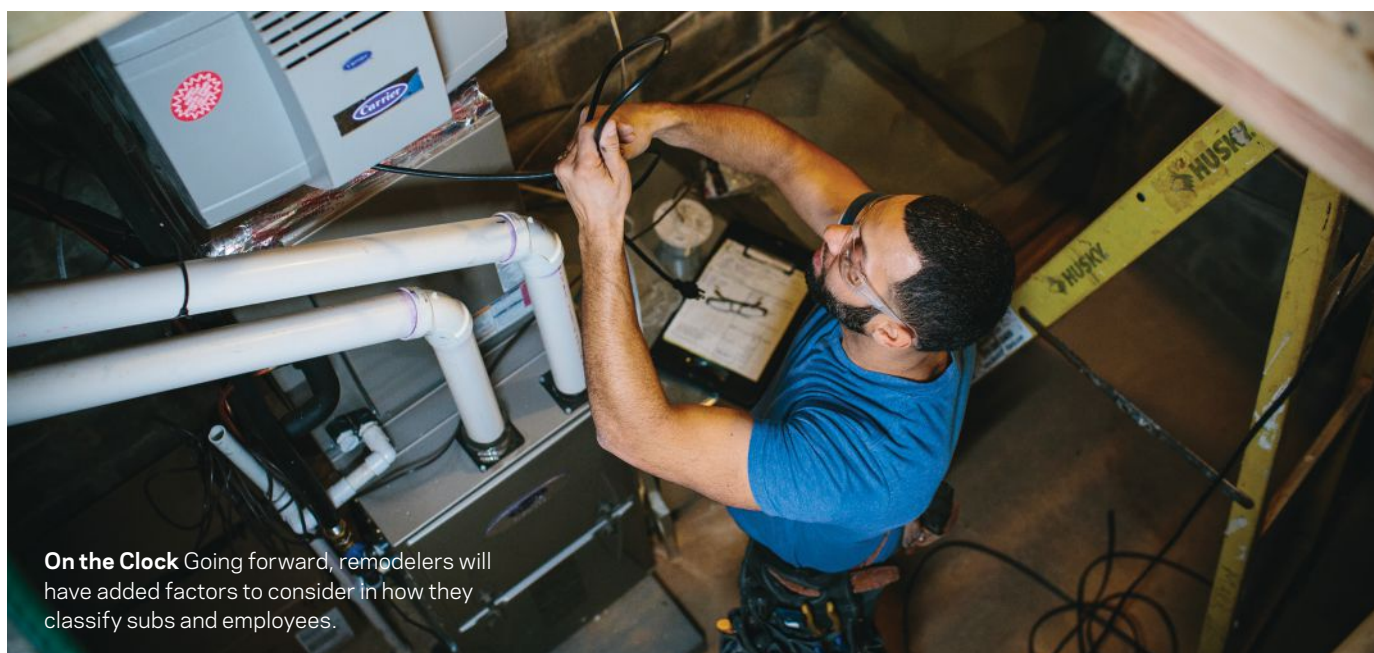
DOL's regulatory agenda predicted a final rule by July 2016," says Al Robinson, a shareholder in the Washington, D.C., office of Ogletree, Deakins, Nash, Smoak & Stewart, P.C., and former acting administrator of the DOL's Wage and Hour Division. However, Patricia Smith, DOL's Solicitor of Labor, said at the American Bar Association conference in November that a final rule "will not be likely before late in 2016."

In the meantime, what should remodeling contractors be doing? "Start by identifying employees currently classified as exempt who earn between the current salary of \$23,660 a year and approximately \$50,000 a year," says Robinson. The contractor should then evaluate whether it is able to increase the salary level for these employees to the threshold amount. If not, it may make more sense to reclassify a position as non-exempt and start paying an hourly wage.

In any case, according to Marie Ruettgers, managing attorney with Sioux Falls, S.D.-based Goosmann Law Firm, remodelers should not wait until the last minute to begin preparing. "Based on the industry publications and the experience of the last time overtime pay regulations were changed, the general consensus is that there will be a very short window for employers to implement the required changes," she says. "The window for implementation could be a short as 30 to 60 days once the final rules are announced."

Ruettgers is advising all employers to audit their workforces in the first half of 2016 and to identify positions that are likely to be reclassified as non-exempt. "Waiting until the new rules are implemented could result in costly mistakes if employers only have 30 to 60 days to conduct their audits and identify positions that need to be reclassified," she says.

—Bill Atkinson is a freelance writer based in Carterville, Ill.



On the Clock Going forward, remodelers will have added factors to consider in how they classify subs and employees.

Health Care Hazards

Under-the-radar health reimbursement account fines could blindside remodelers / by Gary Thill

Smaller remodelers may think they have nothing to fear from Obamacare in 2016. But they're wrong, say experts. A little-known Affordable Care Act-related fine of \$100 per day per employee enacted in 2015 has the potential to "blindside" some remodelers in 2016—unless a Congressional action can save them.

The fines are for health reimbursement accounts, or HRAs. HRAs should not be confused with health savings accounts (HSAs) often offered with high-deductible insurance plans; unlike an HSA, only employers can contribute to a health reimbursement account.

HRAs allow employers who can't offer full health insurance benefits to offset employee health care costs. Less than 50% of remodelers currently offer health insurance, according to the National Association of the Remodeling Industry. Of the full-service companies in the Remodeling 550, 62% provide insurance.

NARI figures show most remodelers have fewer than 10 workers, far below ACA thresholds for requiring health insurance. These firms have traditionally treated HRAs as a way to attract quality workers, says Robert Criner, president of Criner Remodeling and National Association of Home Builders Remodelers chair.

"The bottom line is that all your better employers are trying very hard to find the best employees, and I'm disappointed someone is taking one the arrows out of my quiver to be able to attract them," Criner says.

HRAs were ruled unacceptable because the ACA prohibits cost sharing of health insurance expenses. Then the Internal Revenue Service stepped in, and as of July 2015, employers offering HRAs can be fined \$100 per day per employee, according to a little-known guidance ruling. That's 600 times the \$695 annual fine for violating the individual mandate, says Kevin Kuhlman, director of public policy for the National Federation of Independent Business (NFIB).

Because HRAs typically are offered by employers who don't meet the Affordable Care Act's employee threshold for health insurance coverage, many remodelers may assume they have nothing to worry about, says Suzanne Beall, NAHB federal legislative director.

To make matters worse, HRAs are often set up through brokers, and remodelers may not even know they're offering them—until

they get audited and fined, Beall says. She recommends that remodelers work with an expert or talk to their broker to find out if they could be liable for HRA fines.

"I think people are going to be very blindsided," Kuhlman says. "Business owners are busy operating their business. They don't have the time or luxury to pay attention to quiet IRS guidelines when they've been told that if you have fewer than 50 employees, you don't have to worry about this."

NAHB and NFIB have partnered with a group of other concerned small business associations on legislation to make HRAs legal again and do away with the penalties, says Beall. The legislation, The Small Business Health Relief Act (HR 2911 and S1697), already has bipartisan support, and President Obama has pledged to sign it. But with so many other items on Congress' agenda, Beall says it's going to be difficult for the bill to reach the president's desk.

"We don't think people are hearing enough about this on [Capitol Hill] to make it a priority," she says. "They're hearing about Syria and refugees and terrorism. This doesn't have the groundswell of support that these other hot topics have."

She and Kuhlman say remodelers can help change that by calling their elected representative and urging them to pass the bill. "We want to bring HRAs back," Beall says. "But we need to make sure the penalties don't come in 2016 when firms get audited."



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Coming Distractions

OSHA's 2016 agenda has items that will directly hit remodelers. First up: Silica / by Julie Swenson

The Obama administration is on track to put four new OSHA rules into effect in early 2016, as well as to change how its inspectors prioritize the types of violations they investigate. These will have varying effects on the remodeling industry.

Employers typically have to bring their practices and equipment into compliance within 60 days, though OSHA sometimes stretches that schedule. "If the regulations are burdensome to implement, businesses may get a longer timeline to get into compliance, but that would be an exception," says Nickole Winnett, a lawyer at Jackson Lewis Law in Washing-

ton, D.C. "However, we don't know the timeline until the final rule is published."

SILICA EXPOSURE

The proposed *Occupational Exposure to Crystalline Silica* rule has been a long time coming (REMODELING published an article about it in March 2015). Now, however, industry insiders insist that it's on a fast track. Winnett calls it "a top priority for the Obama administration and OSHA this year."

Under the proposed rule, worker exposure to airborne silica dust would be limited to a new permissible exposure limit (PEL) of 50 micrograms of respirable crystalline silica per cubic meter of air ($\mu\text{g}/\text{m}^3$). That's half the current PEL of 100 $\mu\text{g}/\text{m}^3$ for general industry.

The rule could have a big impact on remodelers by regulating common tasks that produce silica dust, such as cutting concrete roof tiles and drywall. Employers would be required to minimize dust using equipment and "engineering controls"—wet saws, vacuum dust collection, isolation of dusty areas, and half-mask respirators for workers exposed to silica dust for more than four hours per day. Workers using the respirator for 30 or more days per year would need to be offered a medical exam.

Employers will also be required to train workers on how to mitigate silica exposure. This could include training them how to hook up and use local exhaust systems on saws when cutting, and even where to stand to minimize dust exposure. And of course, the employer will have to document that training.

The rule could be published as early as February, giving businesses until April 2016 to implement it.

SLIPS, TRIPS, AND FALLS

OSHA originally expected to release its *Walking Working Surfaces and Personal Fall Protection Systems* rule in August 2015, but then pushed it back another eight months. The latest plan was to issue a final rule in the spring of 2016, but OSHA then withdrew it unexpectedly at the end of December. Although no explanation was given, insiders speculate that OSHA is focusing resources on silica. It remains committed to publishing a final *Walking Working Surfaces and Personal Fall Protection* rule before January 2017.

If implemented, the rule will update the requirements for personal fall protection systems by taking new technologies into account. OSHA hasn't specified what these new technologies are, but safety experts believe the agency will be addressing recent innovations in products such as harnesses, lanyards, and guard-rail systems.



EYE AND FACE PROTECTION

The *Eye and Face Protection* rule would bring OSHA equipment standards up to date with other government agencies. OSHA adopted standards for protection gear from the American National Standards Institute (ANSI) 40 years ago but hasn't updated those to reflect changes in equipment. The revision will adopt the current ANSI standard, which includes testing requirements and minimum thicknesses for protective eyewear, as well as light transmittance requirements for tinted lenses.

The rule will likely be published in the spring. As most remodelers already use the latest in safety glasses and face protection, they are probably in compliance already. Those that aren't will have 60 days to update their equipment.

WORKPLACE INJURY AND ILLNESS TRACKING

In November 2013, OSHA proposed a new rule on electronic tracking of workplace injuries and illnesses. In March 2016, it is expected to issue a final rule requiring companies with 10 or more employees (half the current minimum of 20) to once a year electronically submit an OSHA 300A summary of injuries incurred by the workers. The rule would require larger employers with 250 or more workers to submit electronic versions of their injury and illness logs quarterly rather than yearly.

In a poll conducted by Safety News Alert in fall 2015, less than half of safety pros who responded favored the proposal. Those

who objected say that injury and illness statistics may not reflect the effectiveness of a business's safety program.

Rob Matuga, NAHB's chief official on compliance issues, expressed concern to NAHB's member remodelers that if OSHA makes these filings public, employers will under-report injuries to avoid bad publicity, as well as to avoid getting flagged by OSHA for investigation—though being too far below average might also raise red flags. Safety advocates also fear that the requirement will provide incentive for employers to under-report injury and illness, because that could skew the numbers below a level that would inspire the imposition of even more stringent safety rules.

NEW INSPECTION PRIORITIES

OSHA is also rethinking the way it prioritizes inspections. In the past, the goal was to do as many inspections as possible; in 2016, however, the focus will shift to what *Safety and Health* magazine describes as "quality over quantity." The agency's "Enforcement Weighting System" will allow inspectors to spend more time on specific investigations in targeted areas.

This could be a big deal for remodelers, as the silica rule will likely be one of those targeted areas. "Remodelers should take the time needed to fully understand the silica rule," advises Winnett. "It's a high priority for OSHA and will be heavily enforced."

—Julie Swenson is a freelance writer based in Minneapolis.

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A Fine Leap

OSHA's Catch-up increase could be a bombshell / by Gary Thill

Remodelers take cover: A 2016 “bombshell” is likely coming from the Occupational Safety and Health Administration, which is expected to increase fines more than 80%.

Thank Congress for the “catch-up” increase—OSHA’s first since 1990—that quietly got tucked into a bipartisan budget act in November. The law allows all federal agencies with civil penalties to update fines for inflation. OSHA can increase fines up to 82% and has until August 1 to do so, says Duane Musser, vice president of government relations for the National Roofing Contractors Association.

If OSHA decides to increase its fines as much as allowed, then the current fine for “serious” violations will rise from \$7,000 to \$12,740, and the maximum for death or repeat offenders will rise from \$70,000 to as much as \$127,400. Musser considers the increase an almost a foregone conclusion. And based on testimony from OSHA assistant secretary David Michaels, that seems accurate.

“The most serious obstacle to effective OSHA enforcement of the law is the very low level of civil penalties allowed,” he testified. As an example, he compared the \$1 million penalty for tampering with water systems that the Environmental Protection Agency can charge to the \$70,000 penalty for willful death that OSHA can levy. “OSHA’s penalties are not strong enough to provide adequate incentives,” he concluded.

Falls are the most common OSHA violation, and roofing is the most fined aspect of remodeling. The latest available statistics for 2013 to 2014 show roofing contractors alone received more than \$18 million in penalties for violating OSHA standards, compared to the overall residential remodeling total of just over \$1.2 million.

“OSHA is one of the biggest concerns that our members have in terms of making sure they’re in compliance,” Musser said. “Anytime you see large increases in OSHA fines, that’s significant. And the way this happened in Congress was a big surprise. So in that sense it’s a significant bombshell.”

And not just for roofers, says Robert Criner, president of Criner Remodeling and National Home Builders Remodelers chair. Criner worries that the fine increases are a signal that OSHA is trying to raise more money, and wonders whether OSHA will be as willing to negotiate fines as it has been in the past.

“This is another scenario where I wish they would spend more money on education to help contractors as opposed to just penalizing them,” he says. “We’re always trying to educate our employees and keep up with the latest requirements.”

He also worries that higher OSHA fines will drive some unscrupulous remodelers further underground. “When it becomes very, very hard to play by the rules, some people will choose not

to,” Criner says.

He urges remodelers to take extra care with safety and to use the necessary safety equipment—not for fear of the new fines, but because it makes good business sense. “It hurts my business to have injuries,” he says. “It increases my insurance. I make very little money without my employees working. So keeping them safe is for everyone’s benefit.”

DOJ Ups Potential for Penalties

/ by Clayton DeKorne

The Department of Justice announced in December that it is teaming up with the Department of Labor “to investigate and prosecute worker endangerment violations.” Current worker safety statutes generally provide for only misdemeanor penalties. Now, prosecutors are “encouraged to consider utilizing Title 18 and environmental offenses, which often occur in conjunction with worker safety crimes, to enhance penalties and increase deterrence.” As explained in the analysis presented by attorneys Mark Milton and Matthew Sharp, Title 18 offenses include false statements, obstruction of justice, witness tampering, and conspiracy.

The warning is clear: If your company is cited for a workplace safety violation, OSHA can bring in federal prosecutors to scrutinize your internal investigations related to the violation. Milton and Sharp suggest that failure to take the violation seriously, or careless internal communications, could turn “a relatively minor OSHA violation into a felony case.” According to Milton and Sharp, “prosecutions of this nature would involve serious felony charges carrying criminal penalties ranging from five to 20 years in prison, along with huge criminal fines. For companies convicted of felonies, or misdemeanor offenses resulting in death, the fine for each offense could be as much as \$500,000.” They also warn that “safety incidents stemming from potential environmental violations may draw more attention from federal prosecutors.” — Clayton DeKorne is the editor of *THE JOURNAL OF LIGHT CONSTRUCTION*. This is an edited version of an article that originally appeared on jlconline.com.

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Are Your Subs Safe?

New insurance requirements will require you to make sure the answer is “yes.” / By Mark Paskell

New insurance underwriting criteria could have a big impact on how underwriters qualify their contractor customers. Some contractors could see higher bills for worker's compensation and general liability; a few could even discover that they no longer qualify for coverage.

The reason is that insurance underwriters are using OSHA's Data & Statistics page, which lists safety citations and fines against contractors and subtrades, to help set rates and determine eligibility. If you're a general contractor, these underwriters aren't just looking at your company: They're also scrutinizing the trade partners you bring onto your jobsites.

Although I suspected this was happening, that suspicion was recently confirmed by a project manager who attended a recent safety class I taught in Mansfield, Mass. “Our insurance company wants to make sure we hire safe subs and installers,” he told me. “So before bringing on a new sub, I now have to go to the OSHA site to see if they have any outstanding citations.” Expect to see more such requirements in the future.

Finding out if a contractor has been cited is fairly simple:

1. Go to OSHA's Data & Statistics page:
<https://www.osha.gov/oshstats>
2. Click on Establishment Search, the top item in the left-hand column.
3. Enter the relevant information for the subcontractor you are vetting.
4. If the sub has been cited by OSHA, there will be a link to click on for details.

The more complicated matter is how to weigh a violation, if you find one, into your hiring decision. What if it's a really good company with competitive rates that does great work, but that had an employee on one of its jobsites fail to work safely on one day? In this case, you can ask for proof that the firm retrained its employees to prevent a re-occurrence.

You need to understand that a company that has been fined by OSHA is on a list for follow-up attention. Even if you are confident that the sub has corrected any safety issues, you need to take steps to protect your company in case OSHA decides to conduct a follow-up inspection while the subcontractor is working on your jobsite.

You also need to be prepared when your insurance provider audits your records and requests proof of safety compliance from your subs. The way to protect yourself against both is to make sure the company can document that it has aggressively imple-

mented a safety program and that its workers will follow your company's jobsite safety protocols.

DUE DILIGENCE

Although a sub that has been cited will warrant extra scrutiny, the preceding advice actually applies to all companies you bring onto your jobs. Even if a company has never been cited by OSHA, you need to document its safety training. You also need a written safety agreement.

To document training, start by asking the following questions:

- Does the company have a written safety plan and a safety manual?
- Have its employees completed the required OSHA training and do those employees have certification?
- Does the company conduct frequent and regular safety meetings, and have those meetings been documented?

For example, when hiring a roofer I would want to see a written fall protection plan, certification that all workers have completed a fall protection class, and records of weekly safety meetings. If a sub can't provide this information, you should think twice about letting it work on your site.

If the company can provide the above and you have decided that you want to work with it, then the next step is for the owner to sign a safety agreement.

It's important that the agreement be drafted with the help of your attorney and that it include the appropriate safety clauses. General clauses should require the sub to follow your jobsite safety protocol; require acknowledgment that all its employees will follow OSHA safety standards; and pre-determine who will speak to an OSHA inspector and how to behave when a jobsite is under an audit.

The agreement also should include specific requirements, such as the following:

- That anyone working at or above OSHA-mandated heights use the proper fall protection systems and guardrails.
- That the sub provide safety gear for its workers. An example phrase might be, “When your workers show up at the jobsite they have a hard hat, safety glasses, and appropriate footwear.”
- That the sub inform your site manager of any safety hazards it will bring to the site. For instance, if drywall will be delivered at 9 a.m. Thursday, the sub needs to tell your project manager or lead carpenter about the delivery, including where and how the sheets will be hoisted into the house.



Even if a company has never been cited by OSHA, you need to document its safety training.

- That the sub properly manages any hazards it creates. In the drywall example, this would include setting up a controlled access zone to keep other workers away from the area while materials are being hoisted, and replacing any guardrails across window or door openings that they have removed for the delivery. Other questions will vary by contractor. A qualified safety con-

sultant can help contractors determine what to include by conducting hazard assessments of the jobsites and of the subtrades. Armed with this information, we can then recommend appropriate solutions specific to each contractor's needs. Our clients use these recommendations when discussing the subcontractor agreement with their attorney.

Including a safety protocol in your agreements is an important step in setting expectations with subtrades and creating a safety mindset. This mindset will improve productivity and keep liability and legal costs in check. Most importantly, it will help prevent injuries and deaths on your jobsites.

—Mark Paskell is president of *The Contractor Coaching Partnership*, a Massachusetts firm providing business coaching and mentoring, OSHA training, and related services for residential contractors.



Ian Meir Kaplan

Dodging Legal Landmines

Omit these three key contract clauses at your own risk / By Alex Barthet

Every company seems to have its own contract these days. Whether it's the general contractor, subcontractor, or supplier, everyone has their way of assuring that they're protected on the job—or so they think. In the rush to get the work started, however, most folks overlook important details in the contracts that they sign. Specifically, I've seen a lot of construction contracts missing three important clauses.

NO ATTORNEY'S FEES PROVISION

If you have to incur legal fees to prosecute or defend a claim, whether it goes to trial or not, the ability to recover those fees from the other side can dictate how hard you fight or how quickly you settle. So when reviewing a contract, make sure it includes a provision that allows the prevailing party, hopefully you, to recover incurred attorney's fees.

If your agreement is not in writing (big mistake) or if it is not signed, then the ability to recover legal fees becomes much harder, if not impossible. We see this commonly with construction clients who have "terms and conditions" on their delivery tickets or invoices but who never get those documents signed. In many cases, unsigned terms and conditions are useless.

MISSING MERGER CLAUSE

A "merger clause" makes verbal agreements or unsigned written agreements unenforceable; basically, it says that unwritten and unsigned agreements don't exist.

Here is an example that happened to a contractor client recently. In the course of his negotiations with the property owner, emails were exchanged that said the contractor would be paid every week for his work. However, the contract he signed said that he would be paid every 30 days, subject to lender funding. Surprise, surprise: A dispute between the property owner and lender over additional funding arose and the lender stopped funding. The property owner argued that since the agreement required lender funding as a

precondition, the owner did not have to pay. Because the contract contained a merger clause, the property owner prevailed—that is, the court did not allow the contractor to introduce evidence of those prior emails regarding payment terms.

As far as the court is concerned, if the contract has a merger clause then it will not consider any negotiations or discussions about agreements that aren't written into the contract that you actually sign. As the previous example shows, a merger clause can cut both ways, so it is important not only to include one, but to ensure that all significant terms of the contract are fully spelled out. If not, you may find yourself spending a great deal of time and legal fees fighting over terms that are based on notes and emails that preceded the contract.

NO WAIVER OF CONSEQUENTIAL DAMAGES

Consequential damages are damages that flow from a breach of the contract but are not directly related to the breach. Consequential damages an owner may suffer include lost rental income or higher loan payments associated with a construction loan that wasn't converted to a permanent loan. Always try to limit these types of damages in your contracts; doing so is an easy way to limit your financial risk if a job does not go as planned. In fact, many standard contract forms, such as those published by the American Institute of Architects, include waivers of consequential damages.

Construction is a very risky business. Lots of things that can go wrong, and it can be very expensive when they do. It pays to be vigilant when reviewing your agreements to avoid stepping onto any of the above landmines. Doing so will help ensure a more successful project.

— Alex Barthet is board certified construction lawyer and principal of The Barthet Firm, an 11-lawyer construction law practice that has been serving South Florida's construction industry for the last 20 years.

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Safety Products

The newest safety options for your jobsite / by Charles Wardell



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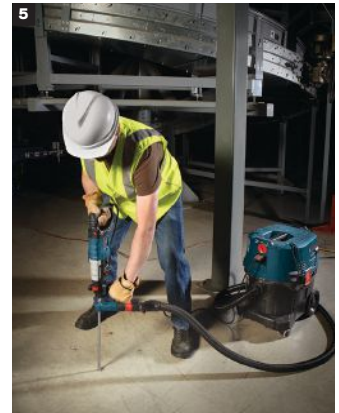
Rockler's Bench Dog Sound Shield Safety Glasses combine protective eye lenses with earplugs tethered to the frame by cords. The glasses have clear plastic, anti-fog lenses. They're available as standard safety glasses or as a "fit over" design for use over eyeglasses. The earplugs slide in and out of the frames by pulling either end of the cords. They store in compartments in the earpieces of the frames when not in use, which eliminates the hassle of lost earplugs. rockler.com

2. ADVANCED SAFETY GLOVES

The layered construction of Safety Today's new high-visibility Brass Knuckle SmartShell gloves is designed to conform to the hand's natural contours and includes flex points in the fingers, wrist, and palm for maximum comfort. Thermoplastic rubber padding is sonically welded to the back of the glove and offers protection from contusions, smash injuries, punctures, and object strikes, with pinch protection extending to each fingertip. The palm has a sandy finish for wet grip slip resistance. safetytoday.ca

3. FOG-FREE GOGGLES

Honeywell's new Uvex Livewire sealed safety eyewear is for workers who need the side protection of a goggle without getting fogged lenses. The company claims that its Uvex HydroShield coating prevents lens fogging more than 60 times longer than competitive



anti-fog coated products and has twice the scratch resistance. The coating is permanently bonded to the lens, so it will not wear off after extended use or repeated cleanings. The glasses are available in nine lens tints and two frame colors. Prescription safety lenses are also available. uvex.us

4. GLASSES MEET EARMUFFS

When used with earmuffs or headsets, regular safety glasses break earmuff seals, causing pressure points against the skull and reducing protection. To eliminate those problems, SoundVision eye protection from FullPro Protective Gear attaches to earmuffs' surface using flexible hook and loop straps, rather than slipping under them. The result is sound protection improved by to seven decibels, according to the maker. Lenses are available with clear, amber, or smoke tints. fullpro.com

5. DUST-FREE CONCRETE DRILL

Bosch Power Tools created its Speed Clean Bits with OSHA's silica rule in mind. Each bit is hollowed and includes a vacuum port for dust extraction. Bosch says that besides minimizing airborne silicone dust, the vacuum port also cuts drilling time by 25% to 50%. Each bit has a solid carbide tip with four-cutter geometry, as well as a rubber connector that connects the drill shaft to the hose. The bits come in a range of sizes that fit Bosch's SDS-plus and SDS-max rotary hammers. boschusa.com

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Design/Build



Bold Moves Bright blue tiles and coordinating drawer pulls provide a pop of color in this bathroom remodel by Mark Evans (opposite page, at left)

Choosing to Succeed

Mastering the selections process is as important as excelling in design and construction

BY BRUCE D. SNIDER

Imagine two design/build remodeling projects, both beautifully designed, both flawlessly constructed. But while one finishes on schedule, with a happy client and a profit on the balance sheet, the other bogs down, goes over budget, and leaves raw feelings all around. The difference? A well-planned and well-managed selections process. Mundane as it seems, directing the flow of all those discretionary bits and pieces can make or break any project. Influencing client decisions

in a positive way requires a combination of structure and finesse as subtle as anything in design and construction.

CONTROL THE PROCESS

Remodeler Peter Feinmann, president of Lexington, Mass.-based Feinmann Inc., says that taming the selections beast requires a clear chain of command. He streamlines the process by assigning each job a “project developer,” who coor-

dinates all the other professionals involved. Depending on the project, this key role can be filled by one of Feinmann's in-house architects, a project manager, or Feinmann himself. The crucial part is that the project developer sets the pace—and the expectations—for the selection process.

"In our company," Feinmann says, "the project developer is the key point of contact, and the architect and interior designer serve under the direction of that person." Without someone assigned to direct traffic in this way, selections can resemble the Abbott and Costello routine "Who's on First?," he says. "Who's in charge of the relationship with the client? To me, the project developer is always on first." That means making sure that clients know where and when to shop for their appliances, countertops, tile, and fixtures, and that the design team's renderings show only materials or products that are in the budget.

Cape Cod-based design/build architect John DaSilva, design principal of Polhemus Savery DaSilva Architects Builders, applies an additional layer of control to manage his firm's large-scale remodeling projects. "Most of our homes are second homes," he says, "and many of our clients have interior designers that they bring to the table."

To organize a multitude of selections from various sources, DaSilva adopted the computer project management program BuilderTREND. Early in each project, DaSilva's designers identify every selection item and assign a deadline. Clients receive password-protected access to the entire project schedule, and the program generates an email reminder as each deadline approaches.

"The architectural project manager is prompted as well," DaSilva says, which allows for additional prodding if necessary. "You can't force a client to stay on schedule, but BuilderTREND is the best scenario we've found for prompting that. Occasionally client inaction changes a schedule, but we have a very well established process. We never miss our contractual deadlines."

CONTROL THE PRODUCT

DaSilva is equally focused on controlling the supply chain for every item that goes into a project. "We can't take responsibility for something we didn't purchase, that we didn't vet," he says. "If somebody buys something themselves, no matter where it comes from, we will only install it if they indemnify us." Few of DaSilva's high-end clients want to source products themselves just to save a few dollars, he says. "More often, they will find some specialty item that you can't buy any other way. They might be on a trip in Europe and see something they like, and they buy it and give it to us to install. When that happens, we make it clear that our accepting it depends on that indemnification."

With the range of available products growing by the minute, clients may have difficulty making a final choice. Feinmann, who became a kitchen dealer more than 10 years ago, maintains a selection center where his designers help narrow the focus. "But there's no such thing as a set universe of selections," he says. "We can show clients a lot of things we work with, but that doesn't mean it's going to fly. There's something called the Internet."

Online research gives clients instant access to a vast range of products and project images, which can help designers zero in on their tastes and preferences. But that browser window can just

Choosing Carefully In simple designs like this kitchen remodel by Peter Feinmann (below right), the details make a big difference.

A comprehensive selection center helps him streamline the process.



Design / Build

as easily become a Pandora's box. "We give our clients kind of a shopping list, if they want start looking at products and getting a feel for what's out there in the marketplace," Feinmann says, but he insists they limit their use of the Web to window shopping.

"We want to buy all the products except for appliances, whether it's lighting or tile or knobs," he says. "We always send our allowances and plans to our favorite vendors, so they're prepared when the client walks in. In this business, you have to control the product, own it, and make a profit on it, because you're going to be working hard on it."

BUY LOCAL

Mark Evans, project designer at Austin, Texas-based CG&S Design-Build, points out another potentially significant pitfall of shopping online or at low-cost retailers. "A lot of times the product will be of lesser quality," he says. "It will be the same company that makes the faucet, say, but the insides are different from what you'd get at a showroom. ... You get the same look, but it's not the same quality."

Online shopping creates chain-of-custody problems too, Evans says. "Someone will say, 'I'll just buy that light fixture online, and you'll install it, and I'll save X amount of dollars.' And the light comes in with the glass broken, and we don't have any control over the Internet company to get that glass in a hurry. We try to get clients to understand that it's not in their best interest. The quality won't be the same; if there's any kind of problem with

the thing, it's going to take longer to fix it; and if it's something important, it can really slow down the job."

To get the best result from both the remodeler's and client's standpoint, Evans makes selections an integral part of the design process. "We meet the clients at their house," Evans says. "Seeing what they already have, you get a little hint of their taste. We get ideas about how they'd like the kitchen to function. Do they bake a lot? Do they need a place for their mixer to live?" People used to collect folders of clippings, he says. "Now with Houzz and Pinterest, they just give us their password."

As the design develops, Evans' architects and designers work with clients as early as possible to fill in product categories with specific selections, rather than with lists and allowances. "We try to minimize allowances," he says. "We want them for things like door hardware ... small things." For larger items, he prefers to keep budget categories fluid, so clients can economize on lower-priority items and splurge on a few special things, while still meeting their target figure.

Most important, Evans and his designers chaperone clients to the firm's favorite suppliers and showrooms. "There are some very savvy clients that really know what they want," he says, "and we're there to just take them to the showrooms and show them where these things are. Other people have no idea and really want our help. But we've visited with them; we know what their furniture and art is like. We get to know them as well as we can, and then we go shopping."



Looking Inside and Out

This addition by John DaSilva (pictured below) pairs striking details, such as a unique weather vane and skylight, with a neutral palette.



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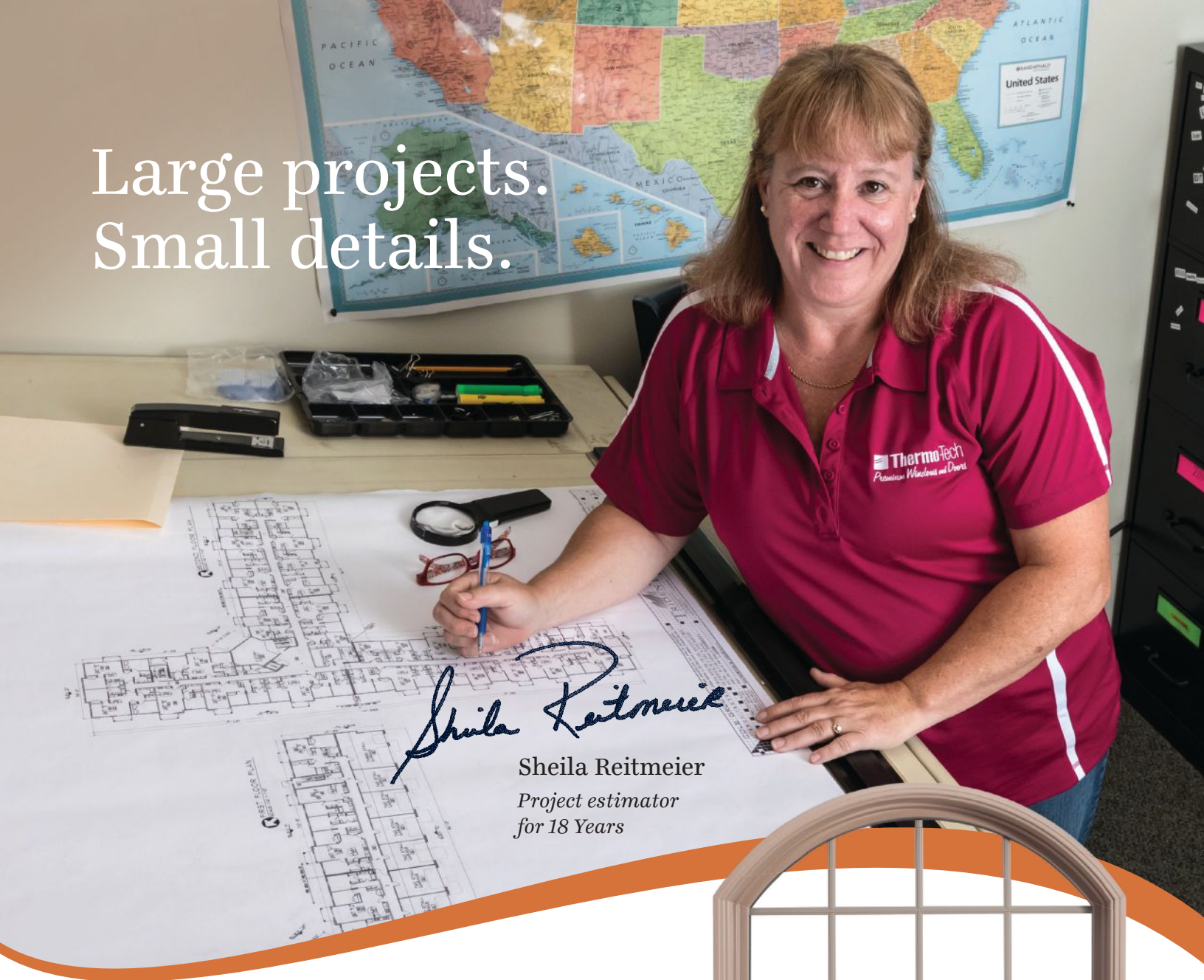
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In One Way, Out the Other

BY LAUREN HUNTER

Whether fiberglass or steel, midrange entry door replacement projects are among the best home improvement investments homeowners can make, based on REMODELING's 2016 Cost vs. Value report. Take advantage of that high payback by upgrading the entry with a range of new door options—but don't stop there. The wide-span door trend continues in the backyard, with a variety of new sliding and folding door options that provide a seamless connection between interior and exterior spaces.

1. WELCOME HOME

The Barrington fiberglass entry door, complemented by the Marco decorative glass design, is Masonite's latest introduction. Suitable for a variety of home styles, the three-panel Craftsman design is available in oak and mahogany textures designed for an authentic wood appearance. The Marco glass blends multiple textures with antique black coming for authenticity. Barrington comes in a 36-by-80-inch size with available 12- or 14-inch sidelites. masonite.com



2. VINYL STYLE

LaCantina is addressing consumer demand for contemporary doors in a vinyl material with its new vinyl folding door system. Sleek 2 15/16-inch stiles and rails leave more room for glass, and an exclusive hardware package is available in stainless or bronze finishes. The concealed multi-point locking system provides added security, while standard LoE glass improves energy efficiency. The vinyl system is suitable for all climates and will be available in white or tan, and in standard or custom door sizes up to 8 feet tall and 18 feet wide. lacantinadoors.com

3. WATER ENTRANCE DENIED

Formerly offered on only select door designs, WaterBarrier technology is now available on virtually all Simpson Door styles, including those with raised or flat panels, ovolo or Shaker profiles, and divided lites. The expansion is thanks to advances in Simpson's production capabilities, and brings WaterBarrier to the maker's Mastermark, Craftsman, and Builders Advantage Series collections, as well as contemporary and traditional product lines. simpsondoor.com

4. REAL CHARACTER

Knotty Alder is among the latest additions to ProVia's available options for entry doors. Offering an old-world aesthetic with the look of natural wood knots, designers can select the species for Signet fiberglass entry doors. Other new options for the Signet line include speakeasy windows, hinge straps, and calvos—all constructed of

flat black aluminum for an authentic, aged look. All ProVia doors are made-to-measure and can take advantage of a variety of design options. Pricing depends on door size and customization. proviaproducts.com

5. CONTEMPORARY UPDATES

New products and enhancements to Weather Shield's Contemporary Collection give the product line a greater resemblance to the commercial steel and aluminum windows gaining appeal in the architectural and design community. The new features include a flush frame design, and a slimmed-down 3 1/4-inch bottom rail on doors in the product line, including the bi-fold (shown). Both updates help minimize the exterior profile. Squared-off hardware reinforces the contemporary aesthetic, along with a variety of sleek finishes including eight anodized or metallic paint options for exteriors. weathershield.com

6. SLIDE ON IN

The Slide & Seal Door System from Reveal Windows & Doors features panels that glide on recessed stainless steel tracks and automatically seal in the closed position. The action is all thanks to a single sleek handle that disappears into the panel when not in use. The aluminum-wood Slide & Seal includes adjustable rollers and hardware for easy maintenance and installation. Choose from a variety of wood species, glazing, track performance, and hardware finish options. The system also can be fully automated. revealwd.com

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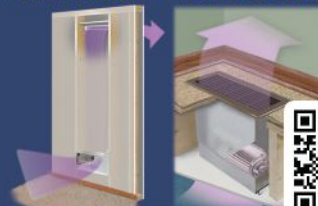


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Living Large-r

BY ERIN ANSLEY

Thanks to a complete overhaul by JMA Architects' founder/principal Jorge Mastropietro and his team, the kitchen of a small apartment in New York's Gramercy Park was transformed from tight and cramped to an open and airy space fit for a growing family. JMA first removed the surrounding walls to eliminate the corridor feel, adding 5 feet to the room's dimensions and creating a natural flow to the adjacent dining area. Updated and re-arranged appliances allowed for the addition of a pantry—a rari-

ty in Manhattan. JMA then replaced the dark color scheme with a white color palette to enhance the room's brightness. With the walls gone, white cabinetry flows from the kitchen to the dining room for a connected look, while a bamboo countertop helps to divide the two areas without imposing on square footage.



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Erik Rank



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