

# OFF THE WALL

The Official Publication of the Wall Ceiling & Carpentry Industries of New York

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## Meet the Contractor Q&A with Patrick Oates of Jacobson & Company Inc.

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## Emergency Preparedness and Response: Getting Started

pg. 16





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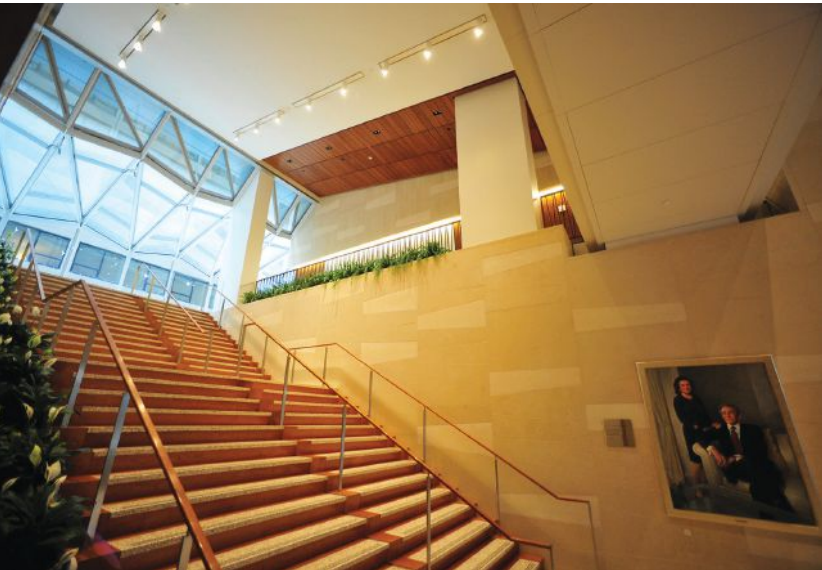
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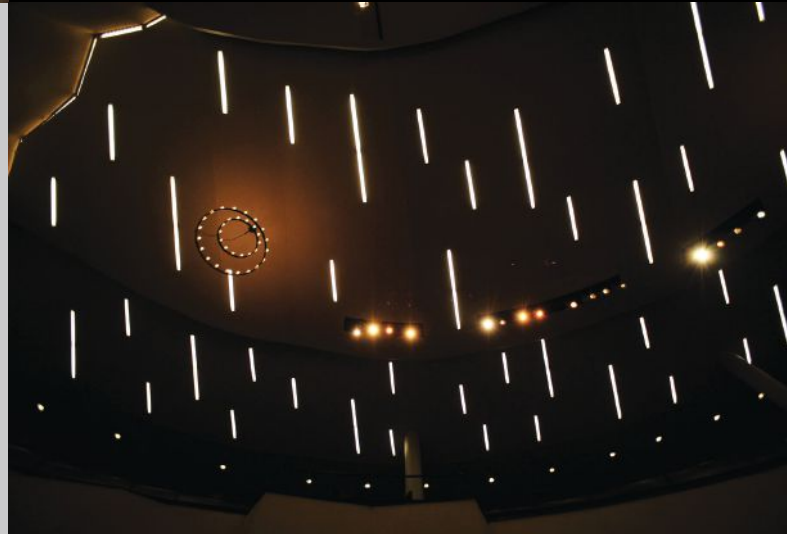




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Michael Weber  
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# Workers' Comp General Liability ADR Alternative

As we know all too well, when it comes time to review and procure your workers' compensation and general liability policies, we often come away stunned, pissed and bewildered at the costs associated with doing business in the great state of New York. Any effort to challenge NYS Labor Law 240-241 would be a colossal waste of time.

Thanks to Josh Taylor, WC&C Board Member and President of Combined Resources Interiors Inc., I have formed an ADR (Alternative Dispute Resolution) Committee to explore options that may be available to our membership. Implementing an optional ADR program for our members will first require labor and management to collectively bargain participation together. Should our labor partners be in agreement, we would submit the collectively bargained ADR program for review and approval by the NYS Workers' Compensation Board. Upon approval, we can begin an implementation program.

A few highlights of an ADR Program are as follows:

- Highest quality medical care to quickly pay you any cash benefits that you are entitled to under workers' compensation law.

- Eliminate the inefficiencies of traditional workers' compensation programs allowing you to receive your benefits faster.
- ADR agreements to ensure that your benefits and rights are equal to or better than traditional workers' compensation programs.
- Impartial adjudicator available to injured worker that replaces Workers' Comp Board.

In the short term, an ADR program could be helpful in mitigating potentially fraudulent claims. In the long term, should the program gain traction with our members, along with a reduction of claims being processed, a savings in premiums would be welcome.

Stay tuned for more details as the committee continues to meet to explore our options with our labor partners.

Congratulations to the 2023 AWCI Pinnacle Award Winner, Brent Allen of Compass Construction in Dublin, Ohio. It is well deserved.

Michael Weber, President

EVENTS 2023

## SEPTEMBER

**September 19, 6:00 p.m.**  
General Membership Meeting  
Galleria Ristorante  
238 Post Ave., Westbury, NY 11590

## NOVEMBER

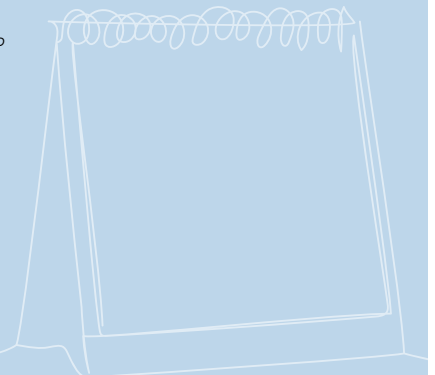
**November 14, 6:00 p.m.**  
General Membership Meeting  
Galleria Ristorante  
238 Post Ave., Westbury, NY 11590

## OCTOBER

**October 24, 6:00 p.m.**  
General Membership Meeting  
TBD

## DECEMBER

**December 5, 6:00 p.m.**  
WC&C Holiday Party  
North Hempstead Country Club







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# New York State Updates and Revises Its Model Sexual Harassment Policy

Mark Rosen

Since 2018, all New York state employers have been required to have written anti-harassment policies and provide annual training to their employees. The New York State Division of Human Rights (“DHR”) published a model policy. While New York employers are not required to adopt wholesale the DHR’s model policy, doing so ensures compliance with the minimum standards to which all employer anti-harassment policies must adhere.

The DHR has updated and revised its model policy. These updates and revisions focus on the following areas:

- **Harassment in remote work environments.** The new model policy includes specific provisions clarifying the applicability of anti-harassment provisions outside of the physical office, including in remote work settings. The model policy and model training now detail the ways in which harassment may occur when employees work remotely, in an effort to address the shift toward remote work arrangements. The updated model training explores sexual harassment based on text messages sent from personal devices and comments made during Zoom calls, where visual access to an employee’s formerly private spaces can invite public commentary. The updated model policy notes that sexual harassment can occur when employees are using virtual platforms or messaging apps from home and can even result from the presence of sexual or discriminatory items visible in an employee’s home office during a virtual meeting.
- **Expanded consideration of retaliation.** The updated guidance provides further consideration of conduct that may constitute prohibited retaliation for the reporting of sexual harassment complaints. The guidance now makes clear that retaliatory conduct may occur outside the workplace and need not necessarily be job-related. The guidance now offers examples of conduct that may constitute retaliation including, among other things, publishing an employee’s personnel files, excluding an individual from assignments due to a perception that he or she is “difficult,” threatening physical violence in nonwork settings, or making negative comments about an individual via personal social media.
- **Bystander intervention and reporting.** The updated model policy adds a new section regarding “bystander intervention,” in which it encourages employees to report any harassment they witness. The policy also offers various methods of intervention that a bystander might use to assist the subject of discrimination or harassment, including (a) taking notes on the harassment for a future investigation, (b) confronting the harasser directly about the inappropriate behavior, or (c) asking a third party to intervene. The revised guidance also makes a clear distinction about the obligations of supervisory personnel, noting that they have an affirmative responsibility to report harassing behavior to their employer. The model policy explicitly indicates that supervisors must report when they witness such conduct and must not wait until they receive a complaint from the affected employee.
- **Transgender and nonbinary rights and gender issues.** The new model policy adds language defining gender and gender identity-related terms and provides specific guidance for protecting transgender rights, including using preferred pronouns.



New York employers should review their policies, particularly with respect to the above-referenced updated categories and be sure to provide all employees with a copy of the updated policy. The model policy language does not have to be adopted verbatim. Employers should also bear in mind that harassment protections now extend to nonemployees, including interns, independent contractors and others performing services in an employer's workplace, and take appropriate steps to address any complaints made by or about such nonemployee workers.

### **New York State Modifies Its Salary Transparency Law**

New York state recently adopted a salary transparency law that, effective September 17, 2023, will require employers to disclose the pay range for any job that is advertised, including those for internal promotion or transfer opportunities. The law has now been amended. The amendment modifies the scope of jobs covered by the law, eliminates its record-keeping requirements and provides a definition of "advertisements."

The amendment clarifies the scope of jobs covered. The original version of the law applied to jobs that "can or will be performed" within the state of New York. The amendment modifies the scope of the law by specifying that the new law will apply to jobs that either (i) "will physically be performed, at least in part, in" New York state or (ii) "will physically be performed outside of New York but reports to a supervisor, office, or other work site in New York." This means that jobs that otherwise have no relation to New York state may still be subject to the wage transparency law because the employee's supervisor is based in New York.

The amendment also eliminates the record-keeping requirements of the original version of the law, which would have required employers to maintain

records related to each job, promotion, transfer, compensation, and job description. Such record-keeping concerning compensation, job descriptions and position changes may still be advisable to demonstrate compliance with wage-and-hour laws and to ensure appropriate record-keeping in the event of a claim brought by an employee.

The amendment also adds a definition of "advertisement." The amendment defines "advertisement" to mean "to make available to a pool of potential applicants for internal or public viewing, including electronically, a written description of an employment opportunity." As defined, the term advertisement applies to both internally and externally publicized job listings.







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# FIRST QUARTER 2023 OBSERVATIONS ON THE CONSTRUCTION INDUSTRY

by Carl Oliveri, Construction Practice Leader

We kicked off 2023 with plenty of unanswered questions around awarded projects commencing, when we will start to see infrastructure spending, labor challenges and the ongoing battle with inflation, which continues to spur interest rate hikes.

With the first quarter of 2023 behind us, do we have any clearer answers now? As an adviser, student and practitioner of the construction industry, it felt only natural to reflect on and share some observations and takeaways from what we experienced in the first quarter.

**Financial Results Are Shaky.** The renaissance the construction industry experienced in the years leading up to and through 2019 is well documented: record levels of spending across all sectors and employment at its highest. And we all know what happened as we pushed into 2020, specifically March 2020 (the irony of writing a state-of-the-industry piece almost exactly three years later is not lost on me).

When the COVID-19 pandemic hit, nearly every business, regardless of the industry, was impacted. But the construction industry had one thing others didn't: committed backlog. Plus, most contractors qualified for the Paycheck Protection Program (PPP) and Employee Retention Credit (ERC) programs, so the financial pain of the pandemic was masked. Flash-forward to 2022, and the backlog had

dwindled, replacement work was hard to find, government assistance programs had ended and the natural lag of the construction industry caught up to us. Not surprisingly, financial results of contractors for 2022 were meek. Put more directly, the 2022 financial results that surfaced during the first quarter of 2023 are showing the construction industry is experiencing what most companies/industries felt in 2020.

**Adjusting to Inflation.** Another economic event that does not discriminate, inflation has made its mark across most businesses and households. And while it continues, the construction industry has adjusted to the rising costs of materials, taken proactive steps to alleviate supply chain issues, and modified employee compensation packages accordingly. While the absorption of rising costs depends on the circumstances at hand, the primary tool to battle inflation — interest rates — has cost contractors real dollars in their bottom line as rates have increased and continue to rise. The private construction sector has experienced substantial fallout as spending has slowed due to the cost of borrowing. Not to mention, the common practice of utilizing a line of credit to mobilize projects as requisition funding is pending has become extremely costly. The best summation is what one industry executive shared with me: "It scares me when I see contractors bidding a project at a margin that is less than their line of credit rate."



**The Banking Shake-Up.** The country hadn't seen a banking crisis since 2008. Coming into this year, a banking crisis — or maybe this was more of a shake-up — was an event we didn't expect to encounter. Seemingly emerging overnight in mid-March, Silicon Valley Bank and Signature Bank made headlines as a result of weak investments and cryptocurrencies. In an age of market perception becoming reality regardless of fact (thanks to social media and the 24-hour news cycles), confidence in both banks was shaken to a point where we saw depositors lining up to withdraw enough funds to cause the banks' collapse. Like 2008, the federal government stepped in to assist by securing all deposits and, in Signature's case, facilitated a soft landing for customers and personnel. Regardless, the damage was done, as numerous contractors either moved or started the process of moving away from Signature. For the New York construction market, there is one less bank dedicated to the construction industry, and we will need to watch closely how Flagstar Bank navigates the market after acquiring Signature. If you missed our recent guidance on what your construction company should do to mitigate banking risks in this environment, you can read the full article online.<sup>1</sup>

**Infrastructure Spending.** The need for the United States to invest and improve our infrastructure is dire. And Washington has recognized and taken steps to address this by passing the Infrastructure Investment and Jobs Act, which will see \$1.2 trillion authorized for transportation and other infrastructure spending, with \$550 billion earmarked for new programs. Interestingly enough, a trade-off in the passing of this legislation was the repeal of the ERC program for the fourth quarter of 2022, which most contractors qualified for in the first three quarters. Even as we hear about the billions of dollars being released and allocated to the states, the projects are MIA. Looking at where we are locally and the robust capital spending plans our public agencies have teed up, we cannot help but wonder how much is reliant on federal dollars?

Looking back, it was an eventful three months, even though it was only three months. The construction industry will look at the rest of 2023 to rebound from shaky 2022 financial results, stabilize their banking positions and hopefully start to see work in both sectors emerge. The industry continues to be a major driver of jobs and opportunities across the country.

As the second quarter continues, Grassi's construction team will continue to monitor industry trends and share proactive advice and insights to navigate the landscape.

<sup>1</sup> [www.grassicpas.com/blog/because-construction-isnt-risky-enough-mitigating-banking-risks](http://www.grassicpas.com/blog/because-construction-isnt-risky-enough-mitigating-banking-risks)

<sup>2</sup> [www.grassicpas.com/industries/construction](http://www.grassicpas.com/industries/construction)



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## Means of Egress

General Industry	Construction	Maritime (Shipyards, Marine Terminals, and Longshoring)
1910.35-37 – Means of egress	1926.34 – Means of egress	–
1910.38 – Emergency action plans	1926.35 – Emergency action plans	1917.30 – Emergency action plan
1918.100 – Emergency action plans	–	–
Appendix – Means of egress	1926.150 – Fire prevention plans	1915.502 – Fire safety plan

## Hazardous Materials

1910.119 – Process safety management of highly hazardous chemicals	1926.64 – Process safety management of highly hazardous chemicals. For requirements as they pertain to construction work, follow the requirements in 29 CFR 1910.119	1918.89 – Handling hazardous cargo
1910.120 – Hazardous waste operations and emergency response	1926.65 – Hazardous waste operations and emergency	–

## Personal Protective Equipment

1910.132 – General	1926.28 – Wearing appropriate PPE	–
1926.95 – General	1915 Subpart I – Personal Protective Equipment	–
1917 Subpart E – Personal protection	–	–
1918 Subpart J – Personal Protective Equipment	–	–
1910.133 – Eye and face protection	1926.102 – Eye and face protection	1915.153 – Eye and face protection
1917.91 – Eye protection	–	–
1918.101 – Eye and face protection	–	–
1910.134 – Respiratory protection	1926.103 – Respiratory protection	1915.154 – Respiratory protection
1917.92 – Respiratory protection	–	–
1918.102 – Respiratory protection	–	–
1910.135 – Occupational head protection	1926.100 – Occupational head protection	1915.155 – Head protection
1917.93 – Head protection	–	–
1918.103 – Head protection	–	–
1910.136 – Occupational foot protection	1926.96 – Occupational foot protection	1915.156 – Foot protection
1917.94 – Foot protection	–	–
1918.104 – Foot protection	–	–



1910.137 – Electrical protective devices	1926.97 – Electrical protective devices	–
1910.138 – Hand protection	–	1915.157 – Hand and body protection
–	–	1915.158 – Lifesaving equipment
–	–	1917.95 – Other protective measures
1918.105 – Other protective measures	–	–

### General Environmental Controls

1910.146 – Permit-required confined spaces	1926.1200 – Confined spaces in construction	1915 Subpart B – Confined and enclosed spaces and other dangerous atmospheres in shipyard employment
1910.147 – Control of hazardous energy sources	1926.417 – Control of hazardous energy sources	1915.89 – Control of hazardous energy (lockout/tags-plus)

### Medical and First Aid

1910.151 – Medical services and first aid	1926.50 – Medical services and first aid	1915.87 – Medical services and first aid
1917.26 – First aid and lifesaving facilities	–	–

### Fire Protection

1910 Subpart L – Fire protection	1926.150-.151/1926.2 – Fire protection and fire brigades	1915 Subpart P – Fire protection in shipyard employment
1910.157-163 – Fire suppression equipment	1926.156-157 – Fire suppression equipment	1915.504 – Fire watches
1910.164 – Fire detection systems	1926.158 – Fire detection systems	1915.508 – Training
1910.165 – Alarm systems	1926.159 – Alarm systems	1915.505 – Fire response
Appendices A-E of Subpart L	–	–

### Toxic and Hazardous Substances

1910.1030 – Bloodborne pathogens	1926.21(b)(2)/1926.250 – Separation for waste (sharps, etc.)	–
1926.25 – Housekeeping	–	–
1926.28 – Personal protective equipment	1917.23 – Hazardous atmosphere and substances	–
1918.93 – Hazardous atmospheres and substances	–	–
1910.1200 – Hazard communication	1926.59 – Hazard communication	1918.90 – Hazard communication
–	–	1918.94 – Ventilation and atmospheric conditions
–	–	1918.97 – First aid and lifesaving facilities

The Emergency Preparedness and Response landing page ([www.osha.gov/emergency-preparedness](http://www.osha.gov/emergency-preparedness)) provides a listing of all of the specific hazards for which the agency currently has information available on its website, as well as links to general emergency preparedness and response guidance.

### **What Are OSHA's Requirements for Emergencies?**

Some key OSHA requirements for emergencies can be found in the following sections of standards for general industry (29 CFR 1910), construction (29 CFR 1926) and maritime (29 CFR 1915, 1917, and 1918). The table may not list all standards that apply to all situations.

Additional OSHA standards may apply. The OSHA Law & Regulations webpage ([www.osha.gov/laws-regs](http://www.osha.gov/laws-regs)) provides a complete list of OSHA standards by industry.

### **What Other OSHA Standards Address Emergency Planning Requirements?**

Several OSHA standards address emergency planning requirements, including 29 CFR 1910.38; 29 CFR 1926.35; Hazardous Waste Operations and Emergency Response (HAZWOPER) (29 CFR 1910.120(q)); fire brigades (29 CFR 1910.156); and permit-required confined spaces (29 CFR 1910.146(k), 29 CFR 1926.1211). OSHA Publication 3122,

Principal Emergency Response and Preparedness Requirements in OSHA Standards and Guidance for Safety and Health Problems, provides a broad overview of emergency planning requirements in OSHA standards.

Employers should also be familiar with the consensus standards of the National Fire Protection Association (NFPA), American National Standards Institute (ANSI), and other standards-setting organizations, as these may provide additional recommendations and requirements about emergency planning. The NFPA develops, publishes and disseminates hundreds of consensus codes and standards intended to minimize the possibility and effects of fire and other risks. Virtually every building, process, service, design and installation in society today is affected by NFPA documents. NFPA codes and standards are adopted and used throughout the world. For more information about NFPA and their codes and standards, visit their website at [www.nfpa.org](http://www.nfpa.org).

### **What Is an Emergency Action Plan?**

An emergency action plan (EAP) is intended to facilitate and organize employer and worker actions during workplace emergencies and is recommended for all employers. Well-developed emergency plans and proper worker training (i.e., so that

workers understand their roles and responsibilities within the plan) will result in fewer and less severe worker injuries and less damage to the facility during emergencies. A poorly prepared plan may lead to a disorganized evacuation or emergency response, resulting in confusion, injury, illness (due to chemical, biological and/or radiation exposure) and/or property damage.

Two OSHA standards (29 CFR 1910.38(a) and 29 CFR 1926.35) require written EAPs. Not all employers are required to establish an EAP (see section titled "Am I Required to Have an Emergency Action Plan (EAP)?" to see if your business is required to), but developing an EAP is a good way to protect workers and businesses during an emergency. Emergency preparedness is a well-known concept in protecting workers' safety and health.

Putting together a comprehensive emergency action plan involves conducting a hazard assessment to determine what, if any, physical or chemical hazards inside or from outside the workplaces could cause an emergency. The plan should describe how workers will respond to different types of emergencies, taking into account specific work site layouts, structural features and emergency systems. If there is more than one work site, each site should have an emergency action plan.

Most organizations find it beneficial to include a diverse group of representatives (management, workers, local health departments and agencies, and public safety officials/members) in this planning process and to meet frequently to review progress and allocate development tasks. Outside representatives from federal, state and local agencies may be able to assist organizations with incorporating other requirements or guidelines into their EAPs. The commitment and support of all workers and employers is critical to the plan's success in the event of an emergency; ask for worker input in





developing and implementing an EAP. For smaller organizations with 10 or fewer workers, the plan does not need to be written and may be communicated orally (General Industry Standard – 29 CFR 1910.38(b), Construction Industry Standard – 29 CFR 1926.35(e)(3)).

### Am I Required to Have an Emergency Action Plan (EAP)?

Workplaces covered by the following standards may be required to have an EAP:

- Process Safety Management of Highly Hazardous Chemicals (in general industry, 29 CFR 1910.119; in construction, 29 CFR 1926.64)
- Fixed Extinguishing Systems, General (29 CFR 1910.160)
- Fire Detection Systems (29 CFR 1910.164)
- Grain Handling (29 CFR 1910.272)
- Ethylene Oxide (29 CFR 1910.1047)
- Methylenedianiline (in general industry, 29 CFR 1910.1050; in construction, 29 CFR 1926.60)
- 1,3-Butadiene (29 CFR 1910.1051)

Under OSHA's fire extinguisher standard, 29 CFR 1910.157, an EAP is required if the employer:

- Wishes to comply with only paragraphs (e) and (f) of the standard when providing extinguishers that are not intended for employee use, or
- When the employer does not provide extinguishers and intends to totally evacuate the workplace on the sounding of the fire alarm.

If you are still unsure about whether you are required to have an EAP, use OSHA's Expert System ([www.osha.gov/etools/evacuation-plans-procedures/eap/develop-implement](http://www.osha.gov/etools/evacuation-plans-procedures/eap/develop-implement)) to help you determine your EAP requirements.

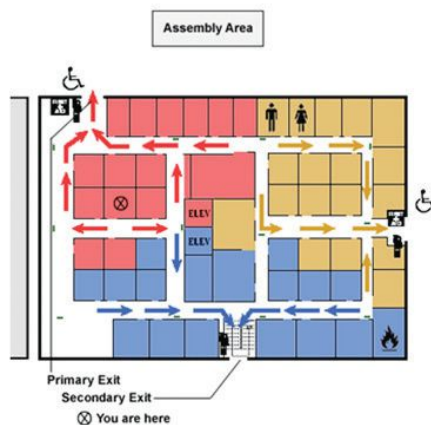
At a minimum, for businesses that are **required** to have an emergency action plan (EAP), the plan must include:

- A preferred method and/or procedures for reporting fires and other emergencies (29 CFR 1910.38(c)(1) and 29 CFR 1926.35(b)(5));



- Emergency escape procedures and route assignments, such as floor plans, workplace maps, and safe or refuge areas (example shown below) (29 CFR 1910.38(c)(2) and 29 CFR 1926.35(b)(1));
- Procedures to account for all workers after an evacuation, such as designating an assembly location (e.g., a safe/refuge area) (29 CFR 1910.38(b)(4) and 29 CFR 1926.35(b)(3));

- Names, titles, departments and telephone numbers of individuals both within and outside the company to contact for additional information or explanation of duties and responsibilities under the emergency plan (29 CFR 1910.38(c)(6) and 29 CFR 1926.35(b)(6));
- Procedures for workers who remain to perform or shut down critical plant operations, operate fire extinguishers, or perform other essential services that cannot be shut down for every emergency alarm before evacuating (29 CFR 1910.38(c)(3) and 29 CFR 1926.35(b)(2)); and
- Rescue and medical duties for any workers designated to perform them (29 CFR 1910.38(c)(5) and 29 CFR 1926.35(b)(4)).



In addition, although not specifically required by OSHA's EAP standard, other emergency preparedness actions include:



- Posting emergency numbers in the workplace for the fire brigade, fire department and other appropriate emergency responders;
- Inviting external emergency responders to tour the facility to learn about hazards, the facility's processes, protective features and systems, and proper actions to take (or not to take) during emergencies. Tours should account for different shifts of firefighters;
- Coordinating tours for volunteer firefighters at times that accommodate their work schedules;
- Arranging training drills for responders and facility personnel to practice emergency procedures together;
- Designating a facility liaison to coordinate with emergency responders and keep them updated if hazards or processes change;
- Designating one or more emergency contact persons who are knowledgeable of the facility's hazards and processes and ensuring their contact information is quickly accessible during emergencies;
- Designating staff responsible to inventory and maintain emergency equipment and supplies;
- Including a description of the alarm system in the emergency plan to be used to notify workers (including disabled workers) to evacuate and/or take other actions. The alarms used for different actions should be distinctive and might include horn blasts, sirens or even public address systems;
- Identifying the site of an alternative facility for communications to be used in the event the primary facility is inaccessible because of emergencies, such as a fire or explosion; and
- Storing original or duplicate copies of accounting records, legal documents, worker emergency contact lists, building plans, HAZMAT lists and other essential records at a secure on-site or off-site location.

### How to Alert Workers of an Emergency?

If a business is required to have an EAP, the plan must include a way to alert workers, including disabled workers, to evacuate or take other action (see 29 CFR 1910.38(d) and 29 CFR 1926.35(c)). These standards require:

- Employers to ensure that alarms are distinctive and recognized by all workers as a signal to evacuate the work area or perform actions identified in the plan; and
- Alarms to be able to be heard, seen or otherwise perceived by everyone in the workplace. Local fire codes require an auxiliary power supply in the event that electricity is shut off. (29 CFR 1910.165(b)(2) offers requirements for alarms.)

The EAP must also state how employees are to report emergencies. Employers should consider making available an emergency communication system, such as a public address system, portable radios or other communications tools to assist in contacting local law enforcement, the fire brigade (if provided), the fire service (e.g., local fire department) and others. These communication systems may also serve as additional means of notifying workers of an emergency. Employers should also provide an updated list of key personnel such as the plant manager or physician, in order of priority, to notify in the event of an emergency during off-duty hours.

The employee alarm systems standard (29 CFR 1910.165) is also aimed at ensuring alarms are able to be perceived by all workers at a work site, including those with physical impairments (see OSHA's 1990 interpretation of the standard at [www.osha.gov/laws-regs/standardinterpretations/1990-09-06-0](http://www.osha.gov/laws-regs/standardinterpretations/1990-09-06-0)). Accordingly:

- Use visual devices to alert hearing-impaired workers (in addition to audible devices); and



- Use tactile devices to alert visually impaired workers (in addition to audible and visual devices).

### Emergency Plan and Evacuation Coordinators

When drafting an emergency action plan, consider selecting a responsible individual to lead and coordinate the emergency plan and evacuation. It is critical that workers know who the coordinator is and understand that the coordinator has the authority to make decisions during emergencies.

The coordinator should be responsible for:

- Assessing the situation to determine whether an emergency exists and, if so, requiring activation of emergency procedures;
- Supervising all emergency efforts in the area, including evacuating personnel;
- Ensuring that external emergency services, such as the local fire department or emergency medical service, are available and notified when necessary; and coordinating these services when they arrive on-site; and
- Directing the shutdown of plant operations when required;
- Ensuring that only trained workers use portable fire extinguishers;
- Ensuring that routes for emergency vehicles and paths for emergency responder access are clear;
- Informing arriving emergency responders of the incident location, conditions, and status of occupants; and
- Having knowledgeable workers available to advise emergency responders.

It may be beneficial to coordinate the action plan with other employers who share the work site, although OSHA standards do not specifically require this.

### Evacuation Wardens

In addition to a coordinator, designate and train workers as evacuation wardens to help move workers

from danger to safe areas during an emergency (see 29 CFR 1910.38(e) and 1926.35(e)(1)). Generally, one warden for every 20 workers should be adequate, and the appropriate number of wardens should be available at all times during working hours.

Workers (e.g., coordinators or wardens) designated to assist in emergency evacuation procedures should be trained in the complete workplace layout and various alternative escape routes. All workers should be made aware of workers with special needs who may require extra assistance; how to use the buddy system (i.e., procedure where two people, the “buddies,” operate together as a single unit so that they are able to monitor and help each other); and hazardous areas to avoid during an emergency evacuation.

### What Type of Training Do Workers Need?

- Educate workers about the types of emergencies that may occur and train them in the proper course of action. The size of the workplace and workforce, processes used, materials handled, and the availability of on-site or outside resources will determine the specific training requirements.

- Ensure that all workers understand the function and elements of the emergency action plan, including types of potential emergencies, reporting procedures, alarm systems, evacuation plans and shutdown procedures.
- Discuss any special hazards on-site such as flammable materials, toxic chemicals, radioactive sources or water-reactive substances.
- Clearly identify and communicate to workers specifically who will be in charge during an emergency to minimize confusion.

Topics for worker training:

- Individual roles and responsibilities;
- Threats, hazards and protective actions;
- Notification, warning, and communications procedures;
- Means for contacting family members in an emergency;
- Any special tasks that workers may be called upon to perform during an emergency (if applicable);
- Evacuation, shelter and accountability procedures;
- Location and use of common emergency equipment;
- Who is authorized to perform emergency shutdown procedures (if any);



- First-aid procedures;
- Protection against bloodborne pathogens (also see the bloodborne pathogens standard, 29 CFR 1910.1030);
- Respiratory protection (also see the respiratory protection standards, 29 CFR 1910.134 and 29 CFR 1926.103); and
- Methods for preventing unauthorized access to the site.

After reviewing the emergency action plan with workers and ensuring everyone has completed the proper training, it is a good idea to hold practice drills as often as necessary to keep workers prepared. It is also a good idea to include outside resources, such as fire and police departments, in the practice drills whenever possible. After each drill, employers should: gather management and workers together to evaluate the effectiveness of the drill; identify the strengths and weaknesses of the plan; and identify ways to improve the plan.

### How Often to Train Workers?

Review the plan with all workers and consider requiring annual training on the plan. Also conduct training after:

- Development of the initial plan;
- Hiring of new workers;
- Introduction of new equipment, materials or processes into the workplace that affect evacuation routes;
- Reassignment of workers or changing their job duties;
- Change of layout or design of the facility; and
- Revision or updating of emergency procedures.

### Worker Protection During High-Hazard and/or Unique Emergency Operations

During high-hazard or other unique emergency operations, an employer should work with the incident commander,\* unified command staff\* and other health and safety personnel to limit worker exposures to all hazards through a combination of engineering and administrative controls and safe



work practices, supplemented by personal protective equipment (PPE).

Employers should work with emergency response organizations in their jurisdictions to ensure the organizations are prepared to respond to and safely perform needed rescue operations that may pose unique or particularly hazardous conditions for emergency responders. This may include preparing, training and exercising capabilities for response and rescue operations at steep angles or heights, or in the presence of chemical or other hazards such as in pits, tanks, manholes, boilers, furnaces, silos, hoppers, vaults, pipes, ducts, and bins or on slopes, communication towers or other tall structures, including those under construction; in confined spaces, trenches or underground; and over, near or in water of various depths. Such operations may require special engineering and administrative controls, work practices

and PPE to protect emergency response and recovery workers.

*\*See the Department of Homeland Security (DHS)/Federal Emergency Management Agency (FEMA) National Incident Management System (NIMS) page ([www.fema.gov/emergency-managers/nims](http://www.fema.gov/emergency-managers/nims)) for guidance on implementing the Incident Command System (ICS) during an actual emergency response.*

### Additional Resources How to Plan for Workplace Emergencies and Evacuations

Occupational Safety and Health Administration (OSHA), U.S. Department of Labor (DOL): [www.osha.gov/sites/default/files/publications/osha3088.pdf](http://www.osha.gov/sites/default/files/publications/osha3088.pdf)

Booklet to help employers and workers plan for evacuations following emergencies or disasters.



### Emergency Response Resources

National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC), U.S. Department of Health and Human Services (HHS)

Numerous emergency preparedness and response resources for business owners and managers, including links to:

- Management planning guides
- Facility protection instructions
- Emergency contacts

### Prepare Your Workplace and Employees

American Red Cross (ARC): [www.redcross.org/get-help/how-to-prepare-for-emergencies/workplaces-and-organizations.html](http://www.redcross.org/get-help/how-to-prepare-for-emergencies/workplaces-and-organizations.html)

Website of the American Red Cross, which links to resources on personal emergency kits, emergency planning and communications.

### Prepare Your Workplace

American Red Cross (ARC): [www.redcross.org/get-help/how-to-prepare-](http://www.redcross.org/get-help/how-to-prepare-for-emergencies/workplaces-and-organizations.html)

[for-emergencies/workplaces-and-organizations.html](http://www.redcross.org/get-help/how-to-prepare-for-emergencies/workplaces-and-organizations.html)

The American Red Cross Ready Rating™ is a first-of-its-kind membership program designed to help businesses, organizations and schools become better prepared for emergencies. Members join this free, self-paced program and complete a 123-point self-assessment of their business's level of preparedness to identify areas for improvement.

### Get Started: Emergency Preparedness Checklist for Small Business

American Red Cross (ARC): [www.osha.gov/sites/default/files/2018-12/fy07\\_sh-16618-07\\_sm\\_business\\_emergency\\_checklist.pdf](http://www.osha.gov/sites/default/files/2018-12/fy07_sh-16618-07_sm_business_emergency_checklist.pdf)

Having an emergency preparedness plan in place is as important to the survival of your small business as your business plan. Ask yourself the questions in this checklist to help you get back in business after a disaster.

### Preparedness Planning for Your Business

Federal Emergency Management Agency (FEMA), U.S. Department of Homeland Security (DHS): [www.ready.gov/business](http://www.ready.gov/business)

This resource includes specific suggestions for protecting businesses from disasters by taking precautionary actions, planning drills and getting supplies. The resources include several downloadable checklists, plans and discussion topics.

Among the topics covered are:

- Emergency planning
- Involving workers in emergency planning and practices
- Protecting physical assets

### Disaster Preparedness

Small Business Administration (SBA): [www.sba.gov/business-guide/manage-your-business/prepare-emergencies](http://www.sba.gov/business-guide/manage-your-business/prepare-emergencies)

SBA has publications on such topics as:

- Preparing a small business for disaster
- Planning to cut disaster recovery time, expense
- Disaster assistance

It also has a list of other websites that offer assistance in disaster planning and response for small businesses.

### National Fire Protection Association (NFPA) 1600, Standard on Disaster/Emergency Management and Business Continuity Programs

NFPA, 2013 Edition: [www.nfpa.org/assets/files/aboutthecodes/1600/1600-13-pdf.pdf](http://www.nfpa.org/assets/files/aboutthecodes/1600/1600-13-pdf.pdf)

The NFPA 1600 standard establishes a common set of criteria for all hazards disaster/emergency management and business continuity programs. The emergency management and business continuity community comprises many different entities, including the government at distinct levels (e.g., federal, state/provincial, territorial, tribal,



indigenous and local levels); business and industry; nongovernmental organizations; and individual citizens. Each of these entities has its own focus, unique missions and responsibilities, varied resources and capabilities, and operating principles and procedures. Provisions of the standard cover the development, implementation, assessment and maintenance of programs for prevention, mitigation, preparedness, response, continuity and recovery.

**National Fire Protection Association (NFPA) 1620, Standard for Pre-Incident Planning**

NFPA, 2015: [www.nfpa.org/codes-and-standards/all-codes-and-standards/list-of-codes-and-standards?mode=code&code=1620](http://www.nfpa.org/codes-and-standards/all-codes-and-standards/list-of-codes-and-standards?mode=code&code=1620)

The NFPA 1620 standard provides criteria for developing pre-incident plans to help responders effectively manage emergencies so as to maximize protection for occupants, responding personnel, property and the environment. It is a comprehensive guide covering the pre-incident planning process, physical and site considerations, occupant

considerations, water supplies and fire protection systems, special hazards, emergency operations, and pre-incident plan testing and maintenance. Annexes contain case histories and information addressing special or unique characteristics of specific occupancy classifications, as well as sample forms for pre-incident planning.



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# DANGER


## SILICA, CRYSTALLINE: Complying with the Construction Standard

by Occupational Safety and Health Administration  
(OSHA), U.S. Department of Labor

*Editor's note: Visit [www.osha.gov/silica-crystalline/construction](http://www.osha.gov/silica-crystalline/construction) to access the outreach materials and resources outlined below.*

OSHA's respirable crystalline silica standard for construction requires employers to limit worker exposures to respirable crystalline silica and to take other steps to protect workers.

The standard provides flexible alternatives, which OSHA expects will be especially useful for small employers. Employers can either use the control methods laid out in Table 1 of the construction standard, or they can measure workers' exposure to silica and independently decide which dust controls work best to limit exposures to the permissible exposure limit (PEL) in their workplaces.

Regardless of which exposure control method is used, all construction employers covered by the standard are required to:

- Establish and implement a written exposure control plan that identifies tasks that involve exposure and methods used to protect workers,

including procedures to restrict access to work areas where high exposures may occur.

- Designate a competent person to implement the written exposure control plan.
- Restrict housekeeping practices that expose workers to silica where feasible alternatives are available.
- Offer medical exams — including chest X-rays and lung function tests — every three years for workers who are required by the standard to wear a respirator for 30 or more days per year.
- Train workers on work operations that result in silica exposure and ways to limit exposure.
- Keep records of exposure measurements, objective data and medical exams.

Construction employers must comply with all requirements of the standard by September 23, 2017, except requirements for laboratory evaluation of exposure samples, which began on June 23, 2018.

**Construction Outreach Materials**  
**OSHA Small Entity Compliance Guide for Construction** – Discusses suggested engineering and work practice controls, exposure assessments, respirator use, medical surveillance, written exposure control plans and other aspects of compliance.



Applying water to a saw blade when cutting materials that contain crystalline silica — such as stone, rock, concrete, brick and block — substantially reduces the amount of dust created during these operations.

**Sample Training PowerPoint for Construction** – Provides a customizable PowerPoint for employers and other instructors to tailor their training on how to comply with OSHA’s respirable crystalline silica standard for construction.

**OSHA’s Crystalline Silica Rule: Construction (Revised)** – Provides a summary of the requirements of the respirable crystalline silica standard for construction.

**Controlling Silica Dust in Construction Fact Sheets for Table 1 Tasks**

- Handheld Power Saws Fact Sheet
- Handheld Grinders for Tasks Other Than Mortar Removal Fact Sheet
- Handheld Power Saws Used to Cut Fiber-Cement Board
- Jackhammers or Handheld Powered Chipping Tools Fact Sheet
- Handheld and Stand-Mounted Drills Fact Sheet
- Stationary Masonry Saws Fact Sheet
- Handheld Grinders for Mortar Removal (Tuckpointing) Fact Sheet
- Walk-Behind Saws Fact Sheet
- Drivable Saws Fact Sheet
- Rig-Mounted Core Saws or Drills Fact Sheet
- Dowel Drilling Rigs for Concrete Fact Sheet
- Vehicle-Mounted Drilling Rigs for Rock and Concrete Fact Sheet
- Walk-Behind Milling Machines and Floor Grinders Fact Sheet
- Small Drivable Milling Machines (Less than Half Lane) Fact Sheet
- Large Drivable Milling Machines (Half Lane and Larger) Fact Sheet
- Crushing Machines Fact Sheet
- Heavy Equipment and Utility Vehicles Used During Demolition Activities Fact Sheet
- Heavy Equipment and Utility Vehicles Used for Grading and Excavating Tasks Fact Sheet



**Controlling Silica Dust in Construction Videos for Table 1 Tasks**

- Stationary Masonry Saws
- Handheld Power Saws
- Handheld and Stand-Mounted Drills
- Jackhammers or Handheld Powered Chipping Tools
- Handheld Grinders for Mortar Removal (Tuckpointing)
- Handheld Grinders for Uses Other Than Mortar Removal

**OSHA Standards, Interpretations and Directives**

**Construction Industry (29 CFR 1926)**

- 1926 Subpart Z, Toxic and Hazardous Substances
  - 1926.1153. Respirable Crystalline Silica
  - Appendix A, Methods of Sample Analysis
  - Appendix B, Medical Surveillance Guidelines
- Federal Register Notice

**OSHA Directives**

- National Emphasis Program – Respirable Crystalline Silica

- Inspection Procedures for the Respirable Crystalline Silica Standards (New)
- Search all available directives ([www.osha.gov/enforcement/directives/publicationdate](http://www.osha.gov/enforcement/directives/publicationdate))

**Standard Interpretations**

- Search all available standard interpretations ([www.osha.gov/laws-regs/standardinterpretations/standardnumber/1926](http://www.osha.gov/laws-regs/standardinterpretations/standardnumber/1926))

**Frequently Asked Questions**

- Search all available frequently asked questions (FAQs) for the silica rule ([www.osha.gov/silica-crystalline/faqs](http://www.osha.gov/silica-crystalline/faqs))

**State Standards**

There are 28 OSHA-approved state plans ([www.osha.gov/stateplans](http://www.osha.gov/stateplans)), operating statewide occupational safety and health programs. State plans are required to have standards and enforcement programs that are at least as effective as OSHA’s and may have different or more stringent requirements.



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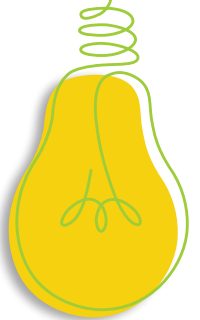
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# Meet the Contractor Q&A with

## Patrick Oates of Jacobson & Company Inc.

### What is your company name, and how long have you been in business?

Jacobson & Company. We have been in business for 134 years, since 1889.

### Where is your office located?

Our main office is in Elizabeth, New Jersey, and we have a second office in Manhattan.

### What type of construction do you perform? Are there any specialties related to your company that you perform?

We perform all types of carpentry, lath and taping, but the main focus is on drywall partitions, drywall and acoustical ceilings, doors and hardware. We do a lot of specialty ceilings and high-end, detailed spaces. The kind of projects we do really runs the gamut. Office interiors, cultural and entertainment venues, health care, core and shell, hotel and residential, stadiums, education, etc. We'll tackle just about anything.

### What role do you play in the company?

My title is executive vice president, and my primary focus is on operations. So, that could be everything from staffing and setting policy, to overseeing our project teams and engaging with clients to make sure we're completing projects to their satisfaction. I'm really lucky to work with a lot of great people. What I end up doing a lot of days is helping those people to continually improve, and making sure they have the resources they need to make themselves and the company successful.

### How did you get started with the company?

My father was a carpenter — a union carpenter — and so I was always around construction as a kid. I had the opportunity to work as an apprentice during summers in college and high school. When I graduated college, Tom Jacobson gave me an opportunity and I ran with it. I work for a great company in an industry I enjoy. Next thing I know, 29 years has gone by!

### Why union carpentry?

We really want to provide our clients with an excellent building experience. We believe union tradespeople really bring a level of knowledge and expertise that is the gold standard.

### What would you like to see change in the construction industry?

If I had one wish right now ... it would be for more office workers to be present in office buildings every day. Maybe that's bigger than just the construction industry. But really, when it comes to the construction industry, I think I'd like to see improvements in the subcontractor change order process. It often takes too long to receive change orders, and that can saddle subcontractors with an unfair amount of risk.

### What would you like to see stay the same in the construction industry?

I would say the camaraderie and mutual respect among clients, colleagues and fellow subcontractors — working together to overcome challenges and bring these projects to completion. There's a sense of accomplishment. And, you know, it's never boring.



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