



Upcoming Events

Wednesday, September 19th

Luncheon, CHP Officer

Wednesday, October 17th

Dinner Meeting, Class A fire rated low slope roofing systems

President's Message

It seems that everyone I talk to in the roofing industry mentions that the market in our area is tough at this time, even the annoying tele-marketers will comment that things are "slow around here too." In this slowed market, the question many managers ask themselves, "is any work better than no work?" Should the company follow their first instincts and drop pricing to maintain sales? Or should they approach the slow market differently? Most roofing companies in San Diego County have been pondering this question.

The truth of the matter is, when prices are lowered, margins will probably decrease. If the pricing structure of a company is based on proper cost accounting, cutting margins can be crippling to the cash flow and stability of the company. Many companies have lowered selling prices to "keep the crews working" only to find when the dust settles no one (including the managers) is helped if the company is forced to close the doors.

The reason this is true is simple math, if the margins are set to cover overhead and profit of a company for a certain term, anything less than that amount will eat into that contribution to the company's foundation. Let me give a general example, the numbers are not based on any real figures simply rounded for ease in understanding. Company A has overhead of \$30,000 per month and needs a 10% net profit margin of \$10,000 per month or a total of \$40,000 for profit and overhead. The Company's average roof selling price is \$10,000, The Company runs at a 40% gross margin per job, with that they would need 10 jobs a month or \$100,000 in sales to meet their financial requirements., which means those 10 jobs will cost the company \$60,000 to complete leaving \$40,000 in gross profits.

If the market slows and the manager decides he must cut prices to keep the crews working by 10%, the average selling price lowers to \$9,000, which lowers the monthly volume to \$90,000. However those 10 jobs still will cost \$60,000 to complete which leaves a \$30,000 gross profit. Since overhead and profits requirements are still \$40,000 the company is now \$10,000 in the red. To compensate for the lost in profits the company would need to sell not just the 10 jobs but also an additional 2 jobs to remain profitable. Even worse is if the company only sells 8 jobs in the month, revenues fall to \$72,000 and the cost to complete the jobs would be \$48,000 leaving only \$24,000 in contribution to overhead and profits. This kind of lost in profits can be devastating.

Continued next page

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President's Message, Continued

As I read and talk to business leaders and consultants they agree that there are better ways to survive a slow market rather than cutting pricing in the roofing industry. It seems there are three areas that could save a company's profit.

- 1) Streamline production: A slow market is a good time to develop more efficient crews. If a crew becomes just 5% more efficiency in production (labor cost or waste control) this would translate to \$5,000 to the bottom line in the example.
- 2) Improve skills of sales personnel: during a slow period is a perfect time to spend more effort in focusing on individual clients and becoming a better salesperson. Better closing ratio and selling added features can make-up for fewer leads.
- 3) Reduce overhead: If Company A could maintain their margins but drop overhead \$5,000 per month this would protect an \$8,333 lost in sales per month.

Though slow market conditions can be stressful for a company, those are times when you should create a better and more productive organization. If the managers of roofing companies would avoid the knee jerk reaction of simply cutting margins when hard times hit and implement better business practices; then more of these companies could survive the "slow periods", changing instead from being another failed statistic, to a long-term solid company.

Mechanic's Lien Refresher

Except in situations in which your contract is directly with the owner of the property, you must serve a 20-Day Preliminary Notice on the owner and general contractor in order to preserve mechanic's lien rights. The 20-Day Preliminary Notice must be served by Certified Mail and must be deposited within 20 days after the first day on which you provide labor, materials, equipment, etc. to the project. If your 20-Day Preliminary Notice is late, you can still preserve mechanic's lien rights. A tardy notice will still be effective to preserve mechanic's lien rights for the period of time beginning 20 days prior to the date of mailing of the preliminary notice forward.

A mechanic's lien cannot be recorded until you have substantially completed your obligations under the contract. If you record a mechanic's lien prematurely, you are likely to lose all mechanic's lien rights. The deadline to record a mechanic's lien is determined by the date of completion of the work of improvement. The "work of improvement" may involve work being performed by other contractors, which may have the effect of extending the deadline to record a mechanic's lien until long after you have finished your work.

For any mechanic's lien, a lawsuit must be filed within 90 days of the date on which the mechanic's lien was recorded, otherwise the mechanic's lien becomes invalid. In the event that a mechanic's lien is recorded and expires 90 days later, you can still record a new mechanic's lien so long as the new mechanic's lien is timely under the rules.

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On the National Front

There is a flurry of new legislation being passed at the state and even municipal levels regarding immigration here in the United States, most of which is targeting employers. Most recently, Arizona and Tennessee have immigration legislation. In Arizona, the new law includes suspension of business licenses for up to 10 days for a first violation of “knowingly” hiring an unauthorized worker. The Tennessee law’s definition of “recklessly” hiring an illegal alien includes situations in which employers request, receive and document federal I-9 forms before commencement of employment and later find the verification to be false.

On July 24th of this year, the new minimum wage rules went into effect. The new federal minimum wage increased from \$5.15 per hour to \$5.85 per hour. Next year it will increase to \$6.55 per hour and in 2009 it will move up to \$7.25 per hour. At least 30 states have established minimum wages higher than the federal rate. Employers MUST post notices about the law in a conspicuous place at work sites.

The Roofing Industry Alliance for Progress is sponsoring three projects at Penn State. The first is a study of thermal properties of green roof systems. The second is a study of photovoltaics in roofing. The third is a sponsorship of Penn State’s entry in the US Department of Energy’s Solar Decathlon competition.

The International Roofing Expo and NRCA Convention is set for February 21-23, 2008 in Las Vegas.

Last month, the NRCA produced a special report on the new DHS Immigration Enforcement Policy. The special report is in-depth and lengthy. That report is attached at the end of the newsletter for your review.

Thank you to the National Roofing Contractors Association for their informative updates!

CHP Officer Sal Partida to Speak at the September Luncheon

The SDRCA will hold the September Luncheon on Wednesday, September 19th at the Butcher Shop Steakhouse. Check-In begins at 11:30 AM and the meeting and lunch begins promptly at 12:00 noon.

We are pleased that the California Highway Patrol will be speaking to our association on what we need to know about using our freeways and roads. The CHP will let us know what the “red flags” are when they are monitoring traffic. Any contractor, supplier, or manufacturer that has any vehicles on the road should attend this meeting, especially if you are carrying any type of load or towing.

The September meeting flier is attached at the end of the newsletter.

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Members in the News



ABC Supply Co., Inc. has opened a new store in Riverside, CA. The company currently celebrating its 25th anniversary is one of the largest wholesale distributors in the United States. ABC has also expanded its products to include a complete portfolio of slate roofing tiles from American Slate Company.



Carlisle SynTec announced the introduction of Self-Adhering Technology (SAT) for its Sure-Weld TPO membranes. This new SAT makes installation for Carlisle's TOP roof system fast, easy, and more efficient than before.



Hanson Roof Tile has announced the addition of boosted tile caps to its product line in Southern California, roofers have in the past cut off the caps of field tiles for this purpose. Now they can be ordered with beveled edges and true colors throughout. The caps are designed to fit on top of Hanson's Regal field tile with the addition of a wire tie and mortar.



CertainTeed has announced that Ford Wholesale is now stocking the full line of CertainTeed Landmark shingles. This includes the Landmark 30 year, Landmark Plus 40 year, and the Landmark Premium lifetime. Presidential, Presidential TL's, Landmark TL's, and the rest of the CertainTeed Luxury Products can be special ordered. Ford is also stocking some of CertainTeed's commercial products including the Flintlastic GTA (APP torch applied) in several of the 8 blends offered and the Flintlastic SA line (SBS self adhered). All commercial products can be special ordered.

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San Diego Roofing Contractors' Association

Wednesday, September 19th, 2007

The Butcher Shop Steakhouse
5255 Kearny Villa Road
San Diego, CA 92123
858-565-2272

September Lunch Meeting
11:30 Check-In
12:00 Noon, Lunch & Program

Sponsored By:

California Highway Patrol

Do you have any vehicles on the road?
If the answer is yes, this is a meeting you do not want to miss. The CHP will speak to our association and give us insight on what they look for when they are on patrol.

If you are carrying any type of load or are towing, valuable information will be available to you at this meeting.



CHP Officer Sal Partida will be providing the presentation.

-----Keep upper portion -----Send lower portion-----

SDRCA Lunch Meeting Reservation Due by Thursday, September 13th, 2007

Company: _____

Please fill in your amount

Attendee: _____

_____ Attendees at \$25.00 member price = \$_____

Attendee: _____

_____ Attendees at \$35.00 non-member price = \$_____

Attendee: _____

Total Price = \$_____

Attendee: _____

Check Enclosed Credit Card listed below Send me an Invoice Use Advocate dinner credits

Card Number: _____ Exp: _____

Name on Card: _____

SDRCA – 1113 Adella Ave., Ste. 100, Coronado, CA 92118

Phone/Fax: 888-825-0621

SPECIAL Report



NATIONAL ROOFING CONTRACTORS ASSOCIATION

August 2007

New DHS Immigration Enforcement Policy

On Friday, Aug. 10, the Department of Homeland Security (DHS) announced a package of 26 new immigration enforcement measures. Among the initiatives is a finalized version of its proposed rule "Safe Harbor Procedures for Employers Who Receive a No-Match Letter." Originally proposed in the June 14, 2006, edition of the *Federal Register*, the rule would alter existing regulations addressing how employers are expected to respond to "no-match" letters from the Social Security Administration (SSA) or DHS.

The new regulation signals DHS' intention to prosecute employers for immigration violations through gaining greater access to SSA records and failure of employers to terminate employees who are the subjects of unresolved SSA no-match letters. The proposed regulation would, in effect, require employers to terminate workers who are the subjects of no-match letters if the discrepancy is not resolved within 93 days after an employer's receipt of a no-match letter.

The rule is expected to be published in the *Federal Register* on Aug. 15 and will become effective 30 days after publication. The rule sets forth the steps employers should take if they want to avail themselves of the safe harbor procedures upon receipt of a no-match letter from SSA or DHS.

What is a no-match letter?

When the information contained on a W-2 form does not match SSA's records, SSA issues a no-match letter so the worker may be properly credited with Social Security earnings. SSA letters are not intended for immigration enforcement purposes, and SSA data currently are not shared with DHS. At the present time, federal immigration regulations do not require employers to take specific actions when they receive SSA no-match letters. Another type of no-match letter is issued by the U.S. Immigration and Customs Enforcement (ICE) division of DHS, which verifies the accuracy of information on I-9 forms. If ICE discovers the immigration-status or employment-authorization documentation presented or referenced by an employee is inconsistent with the agency's records, a no-match letter will be sent to the employer indicating the information provided does not match government records. There can be several causes for a no-match, including clerical errors; name changes; or submission of information for an immigrant who is not authorized to work in the U.S. and is using a false Social Security number, someone else's number or a false immigration registration card ("green card").

Current law

Following enactment in 1986 of the Immigration Reform and Control Act (IRCA), all U.S. employers are required to verify the identity and employment eligibility of all new employees, citizens and noncitizens hired to work in the U.S. after Nov. 6, 1986. It is illegal for an employer to hire, recruit or continue to employ an individual whom the employer knows is an unauthorized alien or if the employer is found to have "constructive knowledge" of the individual's ineligible work status. Employers who violate IRCA through paperwork violations or knowingly employ illegal aliens are subject to civil and criminal penalties, including imprisonment.

Current federal I-9 requirements

The principal mechanism used to verify identity and work eligibility is Form I-9, Employment Eligibility Verification, now issued by DHS' U.S. Citizenship and Immigration Services. Federal law requires all employers to complete I-9 forms whenever an employee is hired or rehired. I-9 requirements apply only to employees; they do not apply to independent contractors.

Section 1 of Form I-9, titled Employee Information and Verification, is to be completed and signed by the employee no later than the close of business on the first day of work. The employer is responsible for ensuring the employee completes Section 1.

Section 2 of Form I-9, titled Employer Review and Verification, is to be completed and signed by the employer after the employer has reviewed certain prescribed documents to establish worker identity and eligibility to work in the U.S. Section 2 is to be completed and signed by the employer no later than the close of business on the employee's third day of employment. If the employee is being hired for three or fewer days, the I-9 form must be completed at the time of hire. In Section 2, the employer identifies the documents that have been examined from the prescribed list of acceptable documents. The employer is not required to verify the authenticity of the documents presented but must examine the documents and certify the listed documents appear to be genuine and pertain to the employee named. If the documents submitted by the prospective employee have expiration dates, such as an unexpired employment authorization card, the expiration dates must also be included in Section 2. The employer inserts the date employment began and certifies that, to the best of the employer's knowledge, the employee is eligible to work in the U.S.

IRCA requires that employers not discriminate against job candidates on the basis of race, color, national origin or citizenship. Employers who impose citizenship requirements or give preference to U.S. citizens in hiring or employment opportunities may be in violation of IRCA. The Immigration and Naturalization Act of 1990 also prohibits employers from asking for more or different documents than what the prospective employee submits from the prescribed list of acceptable documents. Employers cannot require specific documents. Employers must examine the documents presented and accept them if they reasonably appear to be genuine and relate to the employees that present them. If the documents presented do not reasonably appear to be genuine or relate to the employees who present them, employers must refuse acceptance and ask for other documentation from the list of acceptable documents.

Employers are required to retain I-9 forms for each employee for three years from the date of hire or one year after the date of termination—whichever is longer. Employers are allowed to make and keep copies of the documents that were examined when completing Section 2 of the I-9 form but are not required to do so. If employers make copies of the supporting documents, they should be attached to the I-9 form. Employers may now digitize I-9 forms and maintain I-9 records electronically rather than maintaining paper copies. Although employers do not need to submit completed I-9 forms to any government agency, they must have the forms available for inspection if audited. Employers are entitled to three days' written notice if federal officials intend to conduct an I-9 audit unless a warrant has been obtained.

Employers have a good faith defense to a charge of employing unauthorized workers if they have complied with the I-9 process and do not know they are employing unauthorized workers. However, even if an employer does not know of employment of an illegal immigrant, the employer may be liable for civil or criminal violations of IRCA if the employer is deemed to have "constructive knowledge" or has displayed "willful blindness." Constructive knowledge is knowledge that may be inferred through notice of certain facts and circumstances that would lead a person, through the exercise of reasonable care, to know about a certain condition.

Summary of the rule

The finalized version of the rule essentially mirrors the rule proposed in June 2006. Still, many questions remain unanswered in the finalized version, and it is expected DHS will provide additional guidance in the coming months. When that information becomes available, NRCA will alert members.

The final version of the no-match regulation broadens the previous definition of constructive knowledge by adding that the constructive knowledge of unauthorized employment begins when an employer receives a no-match letter from SSA or DHS. Specifically, the no-match regulation adds three new examples of what constitutes constructive knowledge by an employer that an employee may be unauthorized for employment in the U.S. The examples include:

- A request by the potential employee to file an alien labor certification or employment-based immigrant visa petition
- Written notice from SSA that the combination of name and Social Security number submitted for an employee does not match its records
- Written notice from DHS that the immigration-status or employment-authorization document presented or referenced by the employee in completing Form I-9 was not assigned to the employee according to DHS records

The rule also states DHS will continue "to review the totality of relevant circumstances" when determining whether an employer had constructive knowledge that an employee was an authorized worker.

Safe harbor procedures

The rule describes specific steps an employer should take upon receipt of an SSA no-match letter or DHS communication to avoid a finding that the employer had constructive knowledge of employing an illegal immigrant. If an employer fails to follow the safe harbor procedures prescribed in the proposed regulation and an employee, who was the subject of a no-match letter, is found to be an unauthorized alien, the employer may be found to have constructive knowledge of the employee's unauthorized status and would be liable for an immigration violation. The steps that a "reasonable employer" may take to avoid a potential finding that it possessed constructive knowledge include the following:

1. Upon receiving a no-match letter from SSA, the employer should check records promptly to determine whether the discrepancy is a result of a typographical, transcription or similar clerical error in the employer's records or in its communication to SSA or DHS. If there is such an error, the employer would correct its records; inform the relevant agencies; and make a record of the manner, date and time of the verification. ICE would consider a reasonable employer to have acted promptly if the employer took such steps within 30 days of receipt of the no-match letter.
2. If the first step does not resolve the discrepancy, a reasonable employer would promptly request that the employee confirm his or her records are correct. If correction is required, the employer would make the correction, inform the relevant agencies and verify the corrected records with the relevant agency.
3. If the employee states the employer's records are correct, the employer is to request that the employee resolve the discrepancy with SSA. Again, the employer is to take these steps within 30 days of receipt of the no-match letter.
4. If the previous steps lead to resolution, the employer should follow the instructions on the no-match letter to correct information with SSA and retain a record of the verification with SSA.
5. If the discrepancy in the no-match letter is not resolved within 90 days, the employer and employee would then have an additional three days to complete a new Form I-9 with certain restrictions. No document containing the Social Security number or alien number that is the subject of the no-match letter and no receipt for an application for a replacement of such a document may be used to establish employment authorization or identity. Furthermore, no document without a photograph may be used to establish identity. If at this point an employee's identity and work authorization cannot be verified, then, according to the DHS rule, the employer **must choose between terminating the employee or facing the risk that DHS may find that the employer had constructive knowledge that the employee was an unauthorized alien** and the employer violated the law by continuing to employ the individual.

DHS warns that an employer who followed a procedure other than the safe harbor procedures described in the proposed regulation would face the risk that DHS may not agree that the employer did not possess constructive knowledge. Employers are to apply the procedures in the regulations uniformly to all employees who are the subject of no-match letters; otherwise, DHS cautions, the employer may violate applicable anti-discrimination laws.

The safe harbor is not without its limits. DHS makes it clear that “if, in the totality of the circumstances, other independent evidence exists to prove that an employer has constructive knowledge, the employer may still face liability” even if the employer strictly adhered to the procedures outlined. Also, the safe harbor does not apply to a situation in which DHS believes the employer had actual knowledge of hiring undocumented workers.

Information sharing

The DHS regulation does not mandate that SSA share information with DHS. Although SSA will continue to send no-match letters to employers, SSA will not provide DHS with the names of employers who have received such letters, and the no-match letters alone will not trigger immigration work-site enforcement actions. However, if DHS is conducting an I-9 audit, it could use the fact the employer received no-match letters to try to prove the employer had actual or constructive knowledge of hiring undocumented workers.

DHS has also clarified that the final rule applies only to written notices issued directly to the employer from the SSA or DHS. It does not apply to information employers receive through sources other than no-match letters. This includes a discrepancy an employer may learn about in using the Social Security Number Verification Service (SSNVS), for example, which is a voluntary program employers can use to verify Social Security numbers.

Other enforcement initiatives

Aside from converting no-match letters into an immigration enforcement tool, the new administration plan contains other significant measures of concern to the employer community. Notably, the package would:

- **Rename and expand the employment eligibility verification Basic Pilot program:** Homeland Security Secretary Michael Chertoff announced DHS will rebrand the Basic Pilot employment verification program, which currently is mostly voluntary, and will expand the program more than tenfold by mandating its use by more than 200,000 federal contractors and vendors. The program will now be called “**E-Verify**.” Regrettably, the name change will do nothing to address the serious flaws that have been well-documented in its current small and voluntary state. Those problems include inaccurate data, significant privacy lapses and employer abuse. The information inaccuracies frequently lead individuals to delay their start dates or lose their jobs.

- **Encourage states to make E-Verify mandatory:** The administration plans to conduct outreach and provide technical assistance to states to help them require all businesses to use the E-Verify program.
- **Expand information-sharing between DHS, SSA and state departments of motor vehicles:** The new data sources used in E-Verify will include visas and passport information, as well as pictures and data from state motor vehicle departments. It is unclear what, if any, other sources would be tapped in the increased collection of data that will be widely available to the expanding number of program participants. Such sharing of information between inaccurate DHS databases and SSA raises concerns both about privacy and the potential for proliferation of inaccurate information.
- **Continue efforts at state and local law enforcement of immigration law:** The administration announced plans to continue its 287(g) program that allows states and localities to enter into agreements with the federal government to enforce immigration law.

Conclusion

NRCA submitted comments in opposition when the rule was originally proposed because of concerns about employer liability, workability problems, unintended termination of legitimate workers and damage to the overall economy. Most of the concerns raised by NRCA and other stakeholders are not addressed by the finalized version of the rule; however, NRCA intends to work with DHS as implementation moves forward and additional clarifications are issued.

In the meantime, please be certain to follow carefully the safe harbor procedures outlined in this Special Report, and document and inform NRCA of any difficulties encountered when attempting to comply with the new regulation so NRCA can communicate them to the relevant agencies.

Finally, we have seen during the past couple of years a proliferation of immigration enforcement initiatives at the state and local levels. With the apparent inability of the U.S. Congress to enact immigration reform legislation, state and local authorities have taken it upon themselves to fill the enforcement void left by federal inaction. Please be especially aware of any statutes or regulations—in place or contemplated—that might differ from the new federal no-match rule. For specific information about state immigration laws, refer to “The states take a stand,” a feature article that appeared in *Professional Roofing*’s August 2007 issue. You can access the article at www.professionalroofing.net.

If you have any questions or concerns, please feel free to contact NRCA’s Washington, D.C., staff directly at (800) 338-5765 or (202) 546-7584.



Roofing Supply Group & GAF

Present:

“Everguard” Single Ply

When: Thursday November 1, 2007
(9:00 AM – 1:00 PM, Approximately)

Where: Roofing Supply Group
5660 Kearny Villa Road, San Diego, CA

What: Everguard-Single Ply (TPO)

- - Hands On Application
- - Estimating
- - Job Costing
- - Product Specifications & Details

!!! FOOD & BEVERAGES !!!

Please RSVP To R.S.G. at (858) 715-0808 or
Paul Hatch/GAF at (619) 913-1139

SDRCA October Dinner Meeting Raffle

The SDRCA will be having a special raffle drawing at the October Dinner Meeting worth \$200.00 in cash!

Simply fill out this form and mail or fax back to the SDRCA office to be eligible to win. No need to be present at the October Dinner Meeting to win. Please only send one entry in per person per newsletter edition. You may enter only once for each newsletter edition you find this raffle entry.

Name: _____

Company: _____

Email: _____