NESCA Northeastern Subcontractors Association

NEWSLETTER

Vol. 44, No. 6 (518) 869-9800 December 2026

Wishing You Happy Holidays and a Healthy, Prosperous 2027

New Laws to Become Effective in Next Several Weeks

In the coming weeks, several laws recently signed by Governor Hochul will go into effect, so now is the time for NESCA members to take measures to comply with these laws.

Construction Reporting Pay Act – Effective December 8, 2026 The Construction Reporting Pay Act adds Sections 196-e and 224-g to the New York Labor Law and creates new reporting-pay and scheduling-pay obligations for construction employers operating in New York. New Labor Law Section 196-e provides that a construction employee who reports for work at the employer's request or permission must be paid at least four hours at the employee's promised hourly rate even if no work is available. For covered prevailing wage projects, Labor Law Section 224-g requires that a laborer, worker, or mechanic who reports for work be paid at least four hours at the applicable prevailing wage rate, including supplements, for the employee's regularly scheduled classification of work. The Act also creates scheduling-pay obligations when work is canceled with little advance notice. Under Section 196-e, a construction employee who is scheduled to report to work must receive two hours of pay when the employer cancels the shift with less than twelve hours' notice. Likewise, for covered prevailing wage projects, Section 224-g generally requires payment of two hours at the applicable prevailing wage rate, including supplements, when a scheduled shift is canceled on less than twelve hours' notice. Members who would like a copy of this law should contact the NESCA office.

Opioid Antagonist in First Aid Kits – Effective December 12, 2026 - This law requires private employers to include an opioid antagonist (such as NARCAN) where first aid kits are required by OSHA. OSHA requires that if an infirmary, clinic, or hospital is not reasonably accessible to the workplace, adequate first aid supplies must be readily available at the place of work or jobsite. On September 23, 2026 the NYS DOL issued proposed regulations (which are expected to be adopted) addressing workplace training and quantities of the antagonists that must be maintained. Members who would like a copy of this law or the regulations should contact the NESCA office.

Paid Family Leave for Union Construction Workers – Effective January 1, 2027 - This law created a new eligibility standard for paid family leave benefits for construction employees who work for multiple employers pursuant to a collective bargaining agreement. Such employees become eligible for paid family leave benefits after employment for at least twenty-six of the last thirty-nine weeks with any employer who is signatory to the collective bargaining agreement. A Chapter Amendment clarified which employer is responsible when a paid family leave claim is made, that is, such employee will be eligible for paid family leave benefits with the covered employer immediately preceding the period of family leave. Members who would like a copy of this law should contact the NESCA office.

NESCA
Holiday Reception & Dinner
December 10, 2026
Italian American Community Center

6:00 p.m. – Cocktail Reception and Hors D'oeuvres

7:30 p.m. – Dinner

Toys for Tots Presentation

Cost - $125

Spouses/Significant Others Come for Free!



PRESIDENT'S MESSAGE

NESCA's November 12th membership meeting featured Greg Chanese, Assistant Director of the Capital Region Small Business Development Center, who gave a presentation on the use of A.I. in the construction industry. Greg covered some of the pros and cons of using AI in your daily business life and though there are many benefits that can come from AI, sharing too much or the wrong information can be very problematic. For those interested in learning more about this topic, Greg will be conducting a 3-hour seminar on January 27th at the Building Industry Center. The NESCA office will be distributing a notice with more information soon.

NESCA also held a regional membership meeting in Binghamton on November 19th. Alex Racketa, a partner with Hinman, Howard & Kattell, LLP, gave a presentation on "piggybacking", the controversial method of awarding public works contracts without competitive bidding via a cooperative purchasing model. Alex reviewed recent successful litigation challenging the use of piggybacking for public works projects followed by a State Education Department memorandum declaring that piggybacking may no longer be utilized for future public works projects.

Coming up on December 10th, NESCA will host its annual Holiday Reception & Dinner at the Italian American Community Center. This event will be sponsored by NESCA's Board of Directors and Past Presidents and will provide members the opportunity to socialize with your NESCA friends and colleagues. We will dispense with "business" for one month and instead enjoy an extended 1 ½ hour cocktail reception with delicious hors d'oeuvres and a fantastic dinner to follow. And don't forget, your spouse/significant other is invited to attend free of charge. This event also marks the 48th year of NESCA's participation in the U.S. Marine Corps Toys for Tots campaign, so please remember to bring an unwrapped toy with you to the meeting. A representative of the Marine Corps will join us for a special presentation of the toys we collect along with a check for more than $4,500 raised at NESCA's October 1st Trade Show.

On December 2nd, the Board of Directors of NESCA's state affiliate, the Empire State Subcontractors Association, will meet to adopt a program for the 2027 legislative session. I anticipate that ESSA's legislative program will include two measures: 1) legislation that will require a payment bond or an irrevocable letter of credit be posted by a private developer of a "hybrid" project (private building constructed on public land) costing more than $250,000, which will provide all parties supplying labor and/or materials to the project some measure of protection against non-payment for work performed and/or material delivered; and 2) legislation that would prohibit contract provisions that condition a subcontractor's or materialman's right to commence a lawsuit for breach of contract on the exhaustion of another legal remedy.

Lastly, I hope everyone enjoyed their Thanksgiving, and I wish you all a **Merry Christmas** and a **Happy New Year**! I hope you're able to share some wonderful quality time with friends and family during this festive season and I look forward to seeing everyone at the upcoming events.

Jeffrey Orvis, President

NESCA NEWSLETTER

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6 Airline Drive, Albany, NY 12205
(518) 869-9800 www.nesca.org

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COUNSEL'S MESSAGE

On September 9, 2026, the New York State legislature passed §224-g of the New York Labor law entitled Wage requirements for reporting and scheduling pay. The new law becomes effective December 8, 2026.

The statute establishes wage requirements and scheduling pay on construction projects covered by Article 8, Labor Law, §220, 220-b, 224 a, d, e, and f. The statute applies to all NYS Public Work projects.

The law applies to all contractors performing NY State Public Work projects. The law benefits all laborers, workers or mechanics performing work for contractors on public work projects.

The core requirements of the statute require contractors to pay laborers, workers or mechanics who report for work by request or permission of an employer no less than four hours at the prevailing rate of wages, including supplements, for the employee's regularly scheduled classification of work.

Additionally, contractors must pay laborers, workers, or mechanics two hours of prevailing rate of wages, including supplements show up time when a regular classified scheduled shift of work is cancelled on less than twelve hours notice to the employee.

It is noteworthy that should the prevailing rate of wages provide for reporting pay wages and benefits greater than the Four hours and Two hours' time in the statute the existing prevailing rate shall control, and the statute would not be applicable.

Furthermore, payments owed under this statute are classified as prevailing wages and supplements. A failure to comply with the statute could be classified as a prevailing wage law violation and expose the employer to the enforcement provisions of the NY Labor Law and penalties associated with such violations.

As outlined above, this statute will become enforceable on December 8, 2026. It remains to be seen whether the Labor Department extends any enforcement lenience in the initial stages of enforcement. It is better to be prepared and commence full compliance as of December 8, 2026.

As we approach the holidays, I extend my best wishes to the membership for a wonderfully joyous and safe holiday!

Walter G. Breakell, NESCA Legal Counsel

OSHA Releases Guidance for Opioid Emergencies

The U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) has released a Fact Sheet to help employers and workers rapidly respond to opioid-related overdose emergencies in the workplace. Opioid emergencies can happen anywhere, including at work, and being prepared can help save a life. OSHA's new guidance, "Opioid Overdose Rescue with Reversal Medications" provides practical information that focuses on empowering workplaces to recognize the signs of an overdose and act immediately.

OSHA's fact sheet highlights key opioid overdose preparedness strategies, including:

- Keep lifesaving FDA-approved reversal medications – such as naloxone or nalmefene – on hand. These safe, life-saving medications quickly restore normal breathing and generally have no effect if opioids are not present.
- Treat overdose kits like first aid by storing them in highly visible, easily accessible locations, just like automated external defibrillators or standard first-aid kits.
- Educate workers on how to identify critical symptoms of an overdose, such as slow or stopped breathing, blue lips or skin, pinpoint pupils, or unresponsiveness.
- Prepare for rapid action in an emergency by training workers to administer the medication, safely position the individual, and provide supportive care while waiting for first responders.

Although OSHA does not require employers to keep Opioid Overdose Reversal Medications (OORMs) at the workplace, effective December 12, 2026, New York State will require private employers to include an opioid antagonist (such as NARCAN) where first aid kits are required by OSHA. The OSHA Fact Sheet on OORMs can be found at www.osha.gov/sites/default/files/publications/OSHA4519.pdf.

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chris@buzzbid.com
Contact: Chris Buzz

Hogan Electrical Installations
46 Continental Ave.
Cohoes, NY 12047
530-208-8669
hoganelectric518@gmail.com
Contact: Brian Hogan



NESCA's December 10th Holiday Reception & Dinner will be our 48th Annual Toys for Tots Night! Please remember to bring an unwrapped toy with you to the meeting. The Marine Corps will have a representative in attendance.

Calendar of Events

December 2, 2026
ESSA Board of Directors Meeting
Via Webex, 10:30 am

December 3, 2026
Board of Directors Meeting
Italian American Comm. Ctr, 6 pm

December 8, 2026
Erosion & Sediment Control Class
Saratoga City Center, 1 pm

December 10, 2026
Holiday Reception & Dinner
Italian American Comm. Ctr, 6 pm

January 14, 2027
Board of Directors Meeting
Italian American Comm. Ctr, 5 pm

January 14, 2027
NESCA Membership Meeting
Italian American Comm. Ctr, 6 pm

Milestone Member Anniversaries

Mann Wireless – 5 Years
All Type Professional Door Service, Inc. – 30 Years
Trojan Energy Systems, Inc. – 30 Years

Member Payment Tip

Surety bonds are required on practically all public construction projects and many private projects as well. A payment bond states that those supplying labor and materials on a project will be paid subject to any restrictions and limitations imposed by statute or the contract or subcontract. If the general contractor has furnished a payment bond for the project, the subcontractor should seek to obtain a copy of the bond prior to signing the subcontract and definitely prior to beginning work on the project. Once a dispute arises, particularly on a private project, it may be difficult for the subcontractor to obtain a copy of the general contractor's payment bond if it has not done so at the beginning of the project.

With a copy of the payment bond in hand, a subcontractor can be assured that it was issued by a financially secure surety and that the dollar amount of the bond is sufficient to cover possible claims. A subcontractor can also determine the notice and other procedures it will need to follow to assert a claim and possibly file suit should the need arise. Without the bond in hand, it is not possible to be certain what the claim procedures are, and failure to follow the procedures set out in the bond, whether they relate to notice requirements or the need to commence legal action within a specific period of time, may void an otherwise valid bond claim. Many subcontractor bond claims have been lost by waiting until the last moment to seek bond information. Subcontractors should modify their subcontracts to clearly require a general contractor to provide a copy of its payment bond.

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