



# Council of Industry Newsletter

**March 2011**  
Volume 15  
Issue 3

## Manufacturers "Hopeful" After Attending Manufacturing Day In Albany



Manufacturers from throughout New York State, including several from the Hudson Valley, listen intently during a panel discussion at Manufacturing Day in Albany on February 8th.

On February 8<sup>th</sup>, over 75 statewide manufacturing executives came together in Albany for the Manufacturers Alliance 4<sup>th</sup> Annual Manufacturing Day. The day long event included guest speakers Assembly Majority leader Ron Canestrari, Chairman of the Senate Economic Development Committee Jim Alesi, Assembly Minority Leader Brian Kolb, and a keynote address delivered by Lieutenant Governor Bob Duffy. A legislative panel, facilitated by Council of Industry Executive Vice President Harold King, discussed policies impacting manufacturers. The Panel included Assemblyman Will Barclay, Assemblyman Dean Murray, Assemblyman William Magnarelli, Senator Tom O'Mara and Senator David Valesky.

The overall tenor of the event was much more positive than past years when Manufacturing Day participants described their reaction to their meetings in Albany as "frustrated," or "angry." This year words like "hopeful" and "optimistic" were heard as participants felt that legislators of both parties were hearing our message of controlling the cost of government and growing the economy.

In his keynote address Lt. Governor Robert Duffy thanked all the manufacturers present for their commitment and investment in New York State and assured the audience that he and Governor Cuomo are committed to making the hard choices necessary to control the cost of government and move the Empire State toward a more business friendly, pro growth environment.

After the morning session, our manufacturing executives embarked on an afternoon of Lobby visits at the Capital. Organized by regions our groups met with other 30 elected officials and staff, to alert them to the issues hindering their business, and what policy changes they need in order to sustain and grow their business. This year, in addition to the Council of Industry, the Alliance was well represented with members from the following Alliance partners and friends participating: The Manufacturers Association of Central New York, The Chief Executive Network of the Capital Region, Rochester Machining and Tooling Association, Buffalo Machining and Tooling Association, the Manufacturers Association of the Southern Tier, the Long Island Forum for Technology, and the IMA Management Group.

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## Training and Education

### Train Your Supervisors to be Motivators and Problem Solvers

Supervisors and frontline managers are called on frequently to make decisions and solve problems, it is vital that they have the know how to do this effectively. The Council of Industry's Certificate in Manufacturing Leadership course Problem Solving and Decision Making with Bennett Neiman can give them the tools they need to identify problems, find their causes and work out a solution through the use of "Productive Thinking." Find out more in the course description below.



Sometimes the problem supervisors encounter concerns other employees, this is where motivation and discipline can make a difference. The Positive Motivation and Discipline course, taught by Rebecca Mazin, helps supervisors better understand the role they play and how they can impact other employees. They are taught the art of positive feedback, rewards and recognition and general performance improvement techniques. For more information these classes see descriptions below and for more information on any Certificate in Manufacturing Leadership Course or the program itself go to our website [www.councilofindustry.org](http://www.councilofindustry.org) and click on training or call (845) 565-1355.

### Certificate in Manufacturing Leadership - Problem Solving & Decision Making

**Date:** Wednesday, March 9

**Location:** Dutchess Community College, Bowne Hall, Poughkeepsie, NY

**Time:** 9:00 am - 4:30 pm **Cost:** \$200 for a single participant, \$175 for two or more from the same company

**Instructors:** Bennett Neiman

To be an effective leader—whether in a management position or on the front line—you need to develop your Problem-Solving and Decision-Making processes, and be able to get to see the root of problems and quickly enact effective solutions. This workshop will improve your ability to solve problems and make decisions by showing you how to: 1) draw on all the current information and knowledge available in the workplace and beyond, 2) analyze and solve problems, 3) understand how good decisions are made, and by 4) encouraging you to examine your own problem-solving and decision making processes.

This workshop will help you to better identify problems, find their causes, and get their solutions under way—through the tool of "Productive Thinking." Problem solving skills will be improved as you explore different types of problems, overcome barriers to problem solving and learn how to define, analyze, and diagnose the problem correctly.

Use this link to register online: <https://connect.computility.com/form/index.php?id=457f1997acb739f339ef3221fa63251a> or go to [www.councilofindustry.org](http://www.councilofindustry.org) and click on training.

### Certificate in Manufacturing Leadership - Positive Motivation & Discipline

**Date:** Wednesday, March 23

**Location:** Dutchess Community College, Bowne Hall, Poughkeepsie, NY

**Time:** 9:00 am - 4:30 pm **Cost:** \$200 for a single participant, \$175 for two or more from the same company

**Instructors:** Rebecca Mazin

Positive Motivation and Discipline is a full day course that expands your managerial range to its fullest potential and gets your employees motivated to do the job at hand. The information presented includes understanding your role and the impact you have on your most difficult employee, the art of positive feedback, rewards and recognition, techniques and counseling and general performance improvement techniques. These topics will tie directly to the five domains of leadership to be covered as follows:

- The Supervisor / Subordinate Relationship
- Peer Interaction
- Transformation Leadership (Keeping staff motivated while moving in new directions)
- Process Improvement
- The Manager as a Team Leader

Use this link to register online: <https://connect.computility.com/form/index.php?id=10224a8bc57232d8c22ce10a45286675#positivemo> or go to [www.councilofindustry.org](http://www.councilofindustry.org) and click on training.

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## Council News

### Is Your Company Prepared for Emergencies?

*Come to the March EHS Sub-council Meeting and Find Out*

**Topic:** Preparation for Emergency Response in Times of Crisis

**When:** Friday, March 18, 8:30 – 11:00 am

**Where:**  
The Orange County Emergency Service Center, Goshen, NY

**Cost:** None for members



This presentation by **Shannon Fisher, from the Orange County Emergency Services Center**, will discuss the Emergency Services Center and the capabilities offered in Orange County with a focus on the LEPC (Local Emergency Planning Committee) and how they can better assist in preparation for emergency responses and in times of crisis. Topics that will be covered include:

- Continuity of Operations Plans (COOP)
- Emergency Response Plans
- Resources accessible / inaccessible in an around the county
- Tier II (chemical inventory) reports

Presentation will include a tour of Orange County's Emergency Services Center facilities.

To register contact Alison Butler at (845) 565-1355 or [abutler@councilofindustry.org](mailto:abutler@councilofindustry.org) or go online to our website <http://www.councilofindustry.org/council-networks/environmental-health-safety.html>

### Health Care Reform will be Topic for April's HR Sub-council Meeting

**Topic:** The affordable Care Act

**When:** Friday, April 15, 8:30 – 10:30 am

**Where:** Location to be announced

**Cost:** None for members

The Affordable Care Act - What's Next?

- Will Congressional and Court Actions Defeat the PPACA?

There have been challenges to the Affordable Care Act in the courts, and in Congress. What should employers do in light of these actions?

- Recent Guidance from the IRS, DOL and HHS-

The latest interpretations of the PPACA on nondiscrimination, pre-existing conditions, annual limitations, patients' rights and other topics will be discussed.

- Grandfathers and Children: What's required?
- What changes affect grandfathered status? What is required with respect to Young Adult coverage?
- Preparing for 2011 and beyond.

Presented by **Amelia M. Klein**, ("Amy") is a member of **Bond, Schoeneck & King, PLLC**, located in its Albany, NY office. Ms Klein advises employers of all types and sizes on the design and compliance of employee benefit programs, including all types of retirement plans, health and welfare plans, cafeteria and flexible spending account plans, severance and early retirement incentive programs, incentive compensation and nonqualified deferred compensation arrangements

To register contact Alison Butler at (845) 565-1355 or [abutler@councilofindustry.org](mailto:abutler@councilofindustry.org) or go online to our website <http://www.councilofindustry.org/council-networks/humanresources.html>

### Manufacturing Job Opportunities

*If you have job openings and positions to fill—*

- Post it on the Council of Industry Website—
- Look at resumes from our member recommended For Hire page

Contact Alison at [abutler@councilofindustry.org](mailto:abutler@councilofindustry.org) for more info.

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## Personnel Matters

### Selecting The Right Employee

By Gordon McAleer, President, McAleer & Associates

Selecting the right employee can be a value added decision for your business or a very costly one. It is much easier to hire a new employee then to absorb the disruption and costs of a bad hiring decision. The selection needs to answer two fundamental questions: does the candidate have the knowledge, skills and experience to perform the job successfully and will the person fit into the culture of the firm and become a productive and positive team member? A fully qualified candidate will pass both criteria. The first question is addressed by evaluating the candidate's academic credentials, certifications, and licenses where applicable. The second question requires going beyond the technical qualifications into the composite picture of who the candidate is, what are his or her values, and will the person be a positive member of the team.

A strong predictor for the candidate's future success is the past employment history. If the candidate has hopped from job to job, with evident gaps between employments, this is a big caution flag for the employer. However, the current recession has adversely affected countless, very good people. The employer needs to dig deeper into the reasons for job changes.

The interview process is critical to gauging the fit. Using a team approach to interviewing candidates is very useful. The interviews should use a standard set of questions to verify the consistency of the responses from the candidate. Having the candidate come back for a second or third round of interviews allows more team members to be involved in the process and increases the odds of getting to know the candidate. For a key management position, which requires the person to represent the firm to customers, investors, vendors, and regulatory agencies, take the candidate to dinner. This provides a more informal setting for learning more about the candidate and how he would interact with key stakeholders in a social setting. The candidate's conduct over dinner will reveal much about his or her ability to converse, relate to others, and demonstrate good social etiquette skills.

The candidate's postings on social media websites, such as Facebook and LinkedIn, are another source for information on the

candidate's professionalism.

The employer should have policies on the accepted use of social media information and refrain from using this information as the sole reason for rejecting a candidate. Employment lawsuits are cropping up based on allegations of discriminatory actions on the use of social media information for terminations or rejections of candidates.

Some firms use industrial psychological tests to gain further insights into the candidate's emotional intelligence, style of leadership, mental intelligence, and possible presence of pathological traits. Examples of tests include the Meyers Briggs Type Indicator (personality, style of leadership, and inherent career interests), Birkman Method (measures social behavior and compatibility with the corporate culture), and the Minnesota Multiphasic Personality Inventory (MMPI – measures presence of pathological traits). The caution is that the tests are not infallible and can render false positive and false negative results. The tests should only be used in conjunction with together information obtained from interviews and background checks.

When the final decision is being made to extend the job offer, it is a good idea to listen to your "gut." Rely on your intuition to answer the question of will this person fit into the culture and prove to be a valuable addition to the team. If there is any hesitation, it is best to explore those feeling of uncertainty. Assuredly a hint of a quirky behavior during the interview process will be magnified on the job. References and thorough background checks are essential. The job offer should be conditional upon clear background checks. For leadership positions, be sure to include verification of academic and licensure credentials, credit ratings, and driving history. The candidate needs to sign a waiver for these checks.

Regrettably mistakes can be made with the decision to hire someone. The employer should incorporate an early feedback system to gauge how the person is performing and take measures to work with the person for correcting shortcomings. A three to four month period is usually enough time to determine if the match will succeed. Cut your losses if the match is not working out, terminate the person, and start the process over.

*McAleer & Associates is a member of the Council of Industry and is a professional and executive recruiting firm that has been serving the needs of business for securing top talent for over eighteen years. The firm has the exclusive endorsement of CI. Council of Industry members that use McAleer & Associates are eligible for a 25% discount of recruitment fees. Professionalism, confidentiality, and timely results are assured.*



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## More Personnel Matters

### Danger: Look What DOL Is Sharing with Your Company's Friends — and Foes

By Wendi Watts, HRhero.com

You probably know what your profiles on Facebook and LinkedIn look like. But do you know what your organization's profile on the U.S. Department of Labor's (DOL) new online database looks like? Attorney David Fortney recommends every employer check theirs out.

On the database's home page, the DOL states that the site "aims to make the enforcement data, collected by these agencies in the exercise of their mission, accessible and searchable, using common search criteria, by the public."

"The DOL has created a new online resource, the online enforcement database. And in this database, the Labor Department is now allowing the public to see all of the Labor Department prior compliance and enforcement audit results, and you can sort it by zip code, you can sort it by industry sector, you can sort it by company name, any number of ways," Fortney said.

"You can get wage and hour records, you can get the OSHA [Occupational Safety and Health Administration] compliance records, you can get your OFCCP [or Office of Federal Contract Compliance Programs] audit results, and you can get your pension retirement benefit agency [EBSA] audit results, and other agencies. It's all in one location and you can sort it by agency or you can sort it by multiple agencies."

As part of the federal government's effort to be more transparent, the DOL made public this database on enforcement actions and violations.

"This is the database that government used to use as a private database to frankly find out who's a bad actor," Fortney explained. "What they have done now is opened the database up with the thought that not only can the Labor Department enforcement agencies use it, so can other agencies. So the [Equal Employment Opportunity Commission] can now look and say, 'Geez, has this employer also been subject to OFCCP enforcement or wage and hour enforcement, etc.?'"

"And under the new [Presidential] executive order and the underlying instructions, agencies are to coordinate, and it is not a secret that agencies

will conclude that if an employer has been 'noncompliant' in one substantive area that it is perhaps more likely than not, according to many agencies, probably not being compliant in our area, too. And it will move you up in terms of enforcement priority and responses and result in closer scrutiny."

But what employers and their attorneys are quickly discovering is that the "public" includes employees' attorneys and unions.



"It's not just the compliance agencies that use this," Fortney said. "Plaintiff's counsel who are looking for who they might target to bring class or collective actions, this is a terrific tool for them. Unions, in terms of who they might organize and the themes that might be used in organizing, are finding this useful."

Fortney told the audio conference listeners that they need to go to the DOL's new online database and see what information from the department's agencies about their organizations is now public.

"This is still something that is still very early on. Although it's been online, it isn't receiving much critical attention," Fortney said. "At a minimum, I think every well-counseled employer needs to know what is in its profile on this database because, frankly, a lot of others are already looking at that and making assessments. So you should be looking at it as well and doing the same thing. It's a big deal."

In the Coming Soon section of the DOL's database website, the agency states that it is planning to:

- add searches by violation type, mine ID, accident, injury, etc.;
- provide an interactive dashboard;
- launch a mashup competition to encourage using the DOL's enforcement data to promote workers' safety and protect workers' rights; and integrate the DOL's database with other federal and state enforcement agencies' data systems.

*As part of the federal government's effort to be more transparent, the DOL made public this database on enforcement actions and violations.*



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## Legislative Matters

### Legislative Updates From The Manufacturers Alliance

By Karyn Burns, Director of Government Affairs, Council of Industry

#### Statewide Business Groups Call For Property Tax Cap



On Monday, February 14<sup>th</sup>, The Manufacturers Alliance, of which the Council of Industry is a founding member, participated with multiple statewide association groups at a press conference in the Albany Legislative Office Building, calling for the Assembly to bring the property tax cap bill to the floor and pass it. Of note, Majority leader Sheldon Silver last week introduced the Bill.

In the joint press release, Alliance President Randy Wolken stated, "Manufacturers and businesses statewide have suffered with the burden of high taxes and fees for far too long, and something must be done. A property tax cap is a critical step we need to take to begin the process of reducing the high costs of doing business in New York State. I urge the Assembly to follow the lead of the Administration and Senate, and pass this critical tax cap legislation immediately."

Nine of the highest taxed counties in the nation are right here in New York State.

Unfortunately, President Obama's budget plan also contains higher taxes for virtually all manufacturers – a direct threat to growth and manufacturing jobs. Increased income taxes on companies with worldwide operations, increased energy taxes and income taxes for small and medium-sized companies will make manufacturers less competitive. In order to assist our critical sector in remaining competitive and thriving in today's global economy, we need to be operating in a friendly and conducive business climate. Many of President Obama's tax increases will only be added costs to manufacturers, stifling their ability to grow and expand. Coupled with the high costs of doing business in New York State, these added costs are something our sector simply cannot afford.

For more information on President Obama's budget for 2012 fiscal year and the impacts it will have on nationwide manufacturers, please visit [www.nam.org](http://www.nam.org).

#### President's Budget Calls for Support of R&D, but also significant tax increases for Manufacturers

In February, President Obama released his federal budget for the 2012 fiscal year. Clearly, President Obama recognizes the importance of research and development (R&D) to our economy, and ensuring the R&D is conducted here in the United States, rather than overseas. As you recall, The Manufacturers Alliance has long advocated for an R&D tax credit extension, and joined Senator Gillibrand in Syracuse a few weeks back to publicly back the R&D tax credit bills. Just as Senator Gillibrand did, President Obama called for a strengthened and permanent R&D tax credit. Additionally, proposals to support manufacturing technology and innovation by funding robust protection of intellectual property, the deployment of the next generation broadband, and an increase in basic research funding have the potential to positively impact jobs and economic growth.

#### Assembly Energy Chair Introduces Recharge New York, the Governor's Long Term Energy Program Bill!

In February, Assembly Energy Chairman Kevin Cahill introduced A. 5021 (same as S.3164 & Governor's Program Bill #2), the recharge New York power program, which extends the expiration of the power for jobs program and energy cost savings benefit program, and creates a new long term economic development power program.

Continued on page 15



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*Penalizing existing businesses, the very same businesses Albany is pleading with to remain open and running, is simply an ineffective method of balancing the New York State budget.*



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## Health Care Reform Update

### Healthcare Reform Law Requires New IRS Army Of 1,054

By Paul Bedard, U.S. News.com

The Internal Revenue Service says it will need an battalion of 1,054 new auditors and staffers and new facilities at a cost to taxpayers of more than \$359 million in fiscal 2012 just to watch over the initial implementation of President Obama's healthcare reforms. Among the new corps will be 81 workers assigned to make sure tanning salons pay a new 10 percent excise tax. Their cost: \$11.5 million.

"The ACA [Affordable Care Act] will require additional resources to build new IT systems; modify existing tax processing systems; provide taxpayer outreach and assistance services; make enhancements to notices, collections, and case management systems to address and resolve taxpayer issues timely and accurately; and conduct focused examinations to encourage compliance," said the newly released IRS budget.

In its request, the IRS explained that the tax changes associated with health reform are huge. "Implementation of the Affordable Care Act of 2010 presents a major challenge to the IRS. ACA represents the largest set of tax law changes in more than 20 years, with more than 40 provisions that amend the tax laws."

Unsaid: The requests are just the beginning, since the new healthcare program is evolving and won't be fully implemented until about 2014.

The detailed IRS budget documents spell out exactly what most of the new workforce will be doing. For example, some 81 will be tasked just to handle the tax reporting of 25,000 tanning salons. They face a new 10 percent excise tax on indoor tanning services. Another 76 will be assigned to make sure businesses engaged in making and imported drugs pay their new fee which is expected to deliver \$2.8 billion to the Treasury in 2012 and 2013. The new healthcare corps will also require new facilities and computers.

The document gives the GOP a bright target to hit if they plan to make good on promises to defund the president's healthcare plan.

Wyoming Sen. John Barrasso, who's become a point man in the budget battle, told Whispers,



"The president's irresponsible budget empowers the IRS to begin to audit Americans' healthcare."

As the IRS says, Obamacare represents the largest set of tax changes in more than 20 years. Adding hundreds of new jobs and millions of dollars to the IRS isn't going to make care better or more available for anyone. I will continue to fight to repeal and replace Obamacare with patient centered reforms that help the private sector—not the IRS—create more jobs."

The Treasury Department, which oversees the IRS said: "The Affordable Care Act includes important tax credits that help small businesses provide health insurance for their employees and partially cover the cost of health insurance for Americans who do not have access to affordable coverage, and Treasury's Budget includes funding for the IRS to administer these tax provisions. The vast majority of this funding will be used to develop information technology systems and other support to implement the law and help taxpayers claim these important credits."

The IRS document also noted that other tax law changes related to the stimulus require more workers, estimated at about 215 new employees.

It's not all tough news for taxpayers. The IRS regularly pays for its enforcement team and more when they collect taxes that companies and individuals try to skip out on. According to the budget documents, the IRS plans to get a big return on investment worth about \$279 million by fiscal 2014.

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*"Implementation of the Affordable Care Act of 2010 presents a major challenge to the IRS. ACA represents the largest set of tax law changes in more than 20 years, with more than 40 provisions that amend the tax laws."*

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## EHS Matters

### NAM Testifies to Congress on OSHA Regulations

By Karyn Burns, Council of Industry Director of Government Affairs

On February 10<sup>th</sup>, NAM President and CEO Jay Timmons testified at a House Committee on Oversight and Government Reform hearing, "Regulatory impediments to job creation." Earlier this year, President Obama issued an executive order calling for a government-wide review of federal regulations that harm economic growth and place an unreasonable burden on business. Both NAM and The Manufacturers' Alliance of New York (of which the Council of Industry is a founding member) have long called on Congress to address the stifling impacts of overregulation on job growth, economic recovery and competitiveness. "I wish to express my support for your efforts to bring greater oversight to the cumulative burden of regulation the economy now. Congress and the Administration should scrutinize the past two years of regulations and those currently under consideration to determine if they are consistent with a national mission of jobs and economic growth," said Timmons.



Of particular interest to the Alliance was that at the top of the priority list included The Occupational Safety and Health Administration's (OSHA) proposal on noise level standards, and was figured prominently in Timmons' testimony. OSHA had attempted to reinterpret the definition of "feasible administrative or engineering controls" with regard to noise standards by redefining what is deemed "feasible" for employers to reduce overall noise in the workplace. This OSHA proposal demanded that companies replace proven protections like ear plugs and noise-reducing headsets and instead upgrade their entire worksites to achieve noise limits. The NAM's survey on the potential costs of this reinterpretation found that the burden imposed on businesses ranged from hundreds of thousands of dollars for the smallest companies to millions of dollars for many medium-sized operations.

**OSHA withdrew the proposal on January 19 following strong opposition from manufacturers, but the Agency has not pledged to eliminate this option from future consideration. The Alliance and NAM remain vigilant in its efforts to ensure that this bad idea does not re-emerge.**

The testimony also hailed OSHA's temporary withdrawal of its proposed additional reporting column for work-related musculoskeletal disorders (MSDs) on employer injury and illness logs.

Timmons also outlined the Environmental Protection Agency's (EPA) significant contributions to the costly and unnecessary burdens placed on the economy. Chief among them are the EPA's regulations on greenhouse gas emissions and industrial boilers and its proposals for new ozone standards. The proposed Boiler MACT rule could cost manufacturers over \$20 billion in compliance costs and place hundreds of thousands of jobs in jeopardy in pursuit of a

standard that many believe could never be achieved by any single, real-world source. He cited derivatives regulation, conflict minerals rules, export control regulations and the Department of Transportation's hours of service and lithium batteries rulemaking, among others, as examples of poorly thought-out proposals that are costing jobs.

To read the full testimony, please visit [www.nam.org](http://www.nam.org). The Alliance will continue to monitor these troubling regulations and keep you posted of their status.

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## CI Calendar of Training and Events

<b>March 2</b>	<b><u>Export Seminar/Workshop for Small Manufacturers</u></b> -8:30 – 11:00 am at the College Terrace Restaurant, SUNY New Paltz. Cost \$25 per person. To register visit: <a href="http://www.buyusa.gov/westchester/exportseminar2011.html">http://www.buyusa.gov/westchester/exportseminar2011.html</a>
<b>March 9</b>	<b><u>Certificate in Manufacturing Leadership: Problem Solving &amp; Decision Making</u></b> - 9:00 am—4:30 pm at Dutchess Community College, Poughkeepsie, NY. Cost: \$200 single participant, \$175 each for 2 or more from the same company.
<b>March 18</b>	<b><u>EHS Sub-council Meeting: Emergency Preparedness</u></b> - 8:30 – 11:00 am at the Orange County Emergency Services Center in Goshen, NY. No cost for members.
<b>March 23</b>	<b><u>Certificate in Manufacturing Leadership: Positive Motivation &amp; Discipline</u></b> - 9:00 am—4:30 pm at Dutchess Community College, Poughkeepsie, NY. Cost: \$200 single participant, \$175 each for 2 or more from the same company.
<b>April 15</b>	<b><u>Human Resources Sub-council Meeting: Health Care Reform</u></b> - 8:30– 10:30 am Location to be announced. Presentation by Amy Klein, Bond Schoeneck & King, LLP. No cost for members
<b>April 20</b>	<b><u>Certificate in Manufacturing Leadership: Effective Business Communication</u></b> - 9:00 am—4:30 pm at Dutchess Community College, Poughkeepsie, NY. Cost: \$200 single participant, \$175 each for 2 or more from the same company.

*You can find more information on the courses and events listed in our calendar by going to our website—  
[www.councilofindustry.org](http://www.councilofindustry.org)  
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## Energy Matters

*Prices remain an excellent value for the longer-terms and can be an excellent way to achieve year-over-year savings or savings versus index pricing. Recognize that there are increased risks and long-term prices are only slightly above all-time lows. Remember: timing the bottom of the market can be difficult.*

### Manufacturers Electricity Aggregation



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### Energy Buying Strategies

*From Direct Energy - Energy Insights*

#### Market Overview

A brutally cold December and January has built support in pricing levels for natural gas, however, strong production from shale plays and selling from shale producers have kept prices in check. Over the past month, longer-terms contracts have been range-bound with little overall movement. Since Dec. 1, 2010, the trading ranges have been:

**Calendar 2012:** low: \$4.879/MMBtu  
high: \$5.140 current: \$5.038

**Calendar 2013:** low: \$5.217/MMBtu  
high: \$5.407 current: \$5.250

**Calendar 2014:** low \$5.416/  
MMBtu high: \$5.621 current \$5.427

In all cases, these prices remain within 20 cents of all-time lows from October 2010.

#### Weather

Winter temperatures have plummeted and this is shaping up to be one of the coldest winters of the past 20 years. Higher precipitation looks to be increasing river levels to normal conditions in the Pacific Northwest for the first time in several years, after several years of drought. Meaning a good spring for Hydro power.

#### Natural Gas Storage

After ending the injection season with a record amount of gas in storage, brisk withdrawals due to the cold weather have hastened the storage drawdown. Storage now stands at 2,959 Bcf versus last year's 2,890 Bcf (+2.5%) and the 5-year average of 2,798 bcf (+5.8%). Estimates for end-of-winter storage levels have been reduced from an initial guess of 2.0 Tcf to a lower 1.65-1.7 Tcf. Total U.S. storage capacity is roughly 4.0-4.1 Tcf.

#### Natural Gas Production

Strong domestic production remains the key bearish factor in the market. Amazingly, shale gas amounted to only 5% of domestic supply 5 years ago, while today it comprises almost 25%. And pipeline expansions in the

Fayetteville and Haynesville shale plays have brought even more production to the market, with current production from shale resources estimated to be 14 Bcf/day. The natural gas rig count is up 17% versus a year ago, but has dropped by 6% since April and the sentiment has always been that the rig count would have to drop at some point in response to low prices; however, we have not seen any such reaction so far. And, the horizontal rig count (mostly shale) remains strong at 66% above last year.

LNG imports remain extremely low, as international prices remain far above U.S. prices, while Canadian imports are slightly higher at 7.6 Bcf/day and have rebounded due to an increase in demand due to cold weather.

#### Market Outlook

The cold weather has caused some volatility in the shorter-term markets, as gas-related demand has pushed some regional prices to some of the highest levels in months. Longer-term pricing has moved off of its low due to the cold weather and is an excellent example of the risk of extreme temperatures on prices.



Storage has dipped but remains healthy. An ongoing concern is the rig count as it relates to the low-price environment and that impact on future production. The economy continues to grow in fits and starts but the overall outlook seems more promising than it was a few months ago. There are clearly more bullish factors in the market but the dominant factor remains—strong domestic production via shale.

#### Fixed Price Customer Considerations:

Prices remain an excellent value for the longer-terms and can be an excellent way to achieve year-over-year savings or savings versus index pricing. Recognize that there are increased risks and long-term prices are only slightly above all-time lows. Remember: timing the bottom of the market can be difficult.

**Continued on page 15**

## Manufacturing Matters

### Report Exonerates Toyota

By John Shook, Lean Enterprise Institute, Inc.

The verdict is in. NASA just released its highly anticipated report about the Sudden Unintended Acceleration (SUA) charge in Toyota vehicles and Toyota's electronic throttle control system is fully exonerated. The ten-month study by 30 NASA engineers found "no evidence that a malfunction in electronics caused large unintended accelerations," according to Michael Kirsch, principal engineer and team leader of the study. This means that that the reports of SUA were caused by "pedal misapplication," otherwise known as driver error.

So the events that led Toyota to recall 10 million vehicles may go down in industrial history as the biggest mountain of a crisis ever made out of the smallest molehill of a technical glitch. We now have verifiable facts, rather than conclusions drawn by politicians, media pundits, and lawyers based on assumptions, innuendo and fear.

The technical charges leveled at Toyota took on a life of their own, quickly becoming "truth" in the public eye. Again, these reports show that there has never been a single confirmed case of electronically caused SUA, in any vehicle of any make - ever. More to the point of Toyota's specific issues: 1. there have been two documented cases of a serious accident due to "floor mat entrapment" (the one that resulted in the accident referenced above and a Camry accident in 2007 that killed one person) and 2. the "sticky pedal" problem in the U.S. is based on a handful of technical field reports from Toyota which include only twelve vehicles (others are surely out there but no more have been confirmed, and others are surely out there on vehicles of all makes and models). Sticky pedals do not cause SUA, they are simply slow to return to idle position (and tests showed the stopping distance with the sticky pedal was the same as with a normal pedal). For that, 10 million recalls.

So . . . case closed? Not so fast. On the technical side, NASA's findings may have exonerated Toyota of the most serious problems that the company has been accused of in recent years. And yet we cannot let the company off so easily. There is still plenty of evidence that the company has not been operating at the

same levels of wall-to-wall excellence for which it

became famous. And, I think it is okay for us to maintain high expectations of Toyota.

From the beginning of this crisis Toyota was seeking a technical answer to the problems and maelstrom that was emerging around it. As the NASA report shows, Toyota was essentially correct in its technical assessment of the problem. Toyota engineers were of course on the case from the beginning. Toyota engineers are trained to see problems EVERYWHERE. All the time, everywhere. So, to the engineers who were making the judgments, there seemed to be no need to rush. In fact, to rush would be precisely the wrong response. All evidence that they had in front of them pointed to the conclusion that there was no technical (the focus of their concern) problem. For further certainty or possibly a different conclusion, more facts were needed. Years of disciplined problem-solving and acculturation told them to never rush to a conclusion - examine the facts, determine causality and judge accordingly, then determine a course of action.

But the nature of the problem quickly shifted from a technical issue to one of a very different kind: Human (customer and employee) behavior, customer expectation and feelings, nuance of communication and trust. As Toyota continued to focus on the technical side of the issue, it seemed uncertain of what to think of the growing concerns of its customers.

That's why I believe that Toyota is indeed to be held totally accountable - no excuses - for the mess it found itself in. With problems large or small, it's not the problem that matters; it's how you respond to it. And Toyota didn't respond well in the early days of its crisis.

**Continued on  
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*So the events that led Toyota to recall 10 million vehicles may go down in industrial history as the biggest mountain of a crisis ever made out of the smallest molehill of a technical glitch.*

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## Member Profile

**Member Profile:** Blooming Grove Stair

**Year founded:** 1985

**Location:** Monroe and Monticello, NY

**Products:** Skilled custom staircase fabricators, design and build staircases

**Website:**

[www.bloominggrovestair.com](http://www.bloominggrovestair.com)

*One of Blooming Grove Stairs most valuable assets is its reputation for producing a top quality product. Customers are willing to pay a little more for the fine craftsmanship evident in their product.*

The address says it all for this month's member profile, "#1 Stair Way." Blooming Grove Stair Company was founded in 1985 and has been manufacturing top quality custom staircases ever since. This is a company that has taken an old profession and used modern technology to elevate the art form. Owners Jesse Kehoe and Paul Graham have been able to learn valuable lessons from the recent recession and housing slump that have made the company stronger.

Blooming Grove Stair was incorporated in 1985 by Glen Durant In January of 2000, Jesse Kehoe and Paul Graham purchased the business and have since combined modern technology with the age old craft of stair building to produce spectacular results. They use CNC machines and computer design software along with their own proprietary developments to manufacture better quality stairs with faster turnaround times and throughout the process provide outstanding customer service. The company now has two manufacturing plants, one in Monroe and one in Monticello, NY.

One of Blooming Grove Stairs most valuable assets is its reputation for producing a top quality product. Customers are willing to pay a little more for the fine craftsmanship evident in their product. While there may not be a lot of stair manufactures around, there is still a good deal of competition for the customer's dollar. According to Jesse Kehoe, CEO of Blooming Grove Stair,

"Our corporate strength allows us to invest in good people, new technology and the future of the business." While technology is helping everyone to build better stairs, even their competitors, Blooming Grove Stair is able to rely on their employees for that extra edge. Their employees are part of the company's reputation and therefore one of their most valuable assets.

The best and most successful companies are the ones that (as the old saying goes) when given lemons, find a way to make lemonade. While the recent economy hasn't been easy to navigate through, Blooming Grove Stair has survived it and become a better company because of the experience. "We are a stronger company now than I think we ever were. I don't think I could have gone back to college and learned what these difficult times have taught me about business, people and priorities," explained Kehoe.

One of the many ways companies have been able to endure despite the economy is by diversifying,

something Blooming Grove Stair started doing years ago. Originally they did not necessarily target renovations or modular home companies, but several years back they began to look to these markets as another possible customer for their product. Today they manufacturer Virtu-Tred™, a product specifically geared to the renovation market



This photo shows a curved stair being fitted with a custom bent railing.

and to provide an economical solution to modular home companies that want furniture grade stairs in their homes.

While the housing market is still in recovery, Kehoe expects things to start picking up soon. He says "The nation will not be able to build this few house in a year and still expect everyone to have a place to live. As unrealistic as 2.1 million homes being built in 2005 may have seemed, even more unrealistic is building less than 600,000 units in each of the last two years. Housing will be coming back and when it does Blooming Grove Stair is poised and excited about the growth opportunity." It seems the future, like the stairs they build, can only go up from here.



## Member Benefits

### Use the SUNY Workforce Development Grant for Training

The Council of Industry and a consortium of Hudson Valley Community Colleges have received funding from the State University of New York to subsidize training for Hudson Valley Manufacturers. This consortium award was the first of its kind statewide and a milestone in cooperation among the region's Community Colleges. Working together we are able to offer more and varied training at reduced at greatly reduced costs.

The funding also allows us some flexibility in the courses we offer. While some courses are scheduled in advance, a significant portion of the funds are available for "customized" training -that is training that an individual company me require, either on site or on campus, in a timely manner.

Here are some general guidelines for accessing the custom training funds

- All training is contracted through a participating Community College.
- Funds are distributed at the discretion of the Council of Industry based on several factors including overall cost and number of employees trained.
- Where possible custom training programs should be made available to other Hudson Valley manufacturers.

Companies interested in accessing the funds will need to submit a simple, one page written request to the Council of Industry. Below are some examples of past training.



- Introduction to Innovation, • Vacuum System Design,
- Photovoltaics, • Value Stream Mapping,
- Line Design, • Kanban, • Kaizen,
- Setup Reduction, • Total Productive Maintenance,
- Strategic Decision Making

and many more for a more detailed list including descriptions go to [www.councilofindustry.org](http://www.councilofindustry.org) and click training

categories or look in our 2011 Training Catalog under SUNY Workforce development Supported Training. If you don't see what you are looking for listed, contact us and we can let you know if it is a possibility.

For more information contact the Council of Industry at (845)565-1355 or [training@councilofindustry.org](mailto:training@councilofindustry.org).

### Consumer Price Index for January 2011

				<u>Point</u>	<u>%</u>	<u>% Increase</u>
<b>Wage Earners &amp; Clerical</b>	<b>Jan. '10</b>	<b>Jan.</b>	<b>Dec. '10.</b>	<b>Increase</b>	<b>Month</b>	<b>Year</b>
1967=100	633.18	644.59	641.20	3.39	0.5	1.8
1982-84= 100	212.57	216.40	215.26	1.14	0.5	1.8
<b>All Urban Consumers</b>						
1967=100	649.1	659.69	656.56	3.13	0.5	1.6
1982-84=100	216.69	220.22	219.18	1.04	0.5	1.6
Hudson Valley unemployment rate for January 2011 = NA at press time						

*This is an opportunity for the President to demonstrate results by eliminating unnecessary regulations already in the pipeline or delaying poorly thought-out proposals that are costing jobs.*

### Place Your Company's Ad Here

The Council of Industry's monthly newsletter has a mailing circulation of 250 manufacturers and an online circulation of hundreds more.

Contact Alison Butler at [abutler@councilofindustry.org](mailto:abutler@councilofindustry.org) or call (845) 565-1355 for more information.

## Financial Matters

### 'Tax Relief Act of 2010' Extends 100% Write-off of Equipment and Software Purchases made in 2011

#### What is the Section 179 Deduction?

Most people think the Section 179 deduction is some arcane or complicated tax code. It really isn't, as the following will show you.

Essentially, Section 179 of the IRS tax code allows businesses to deduct the full purchase price of qualifying equipment and/or software purchased or financed during the tax year. That means that if you buy (or lease) a piece of qualifying equipment, you can deduct the FULL PURCHASE PRICE from your gross income. It's an incentive created by the U.S. Government to encourage businesses to buy equipment and invest in themselves.

Several years ago, Section 179 was often referred to as the "SUV Tax Loophole" or the "Hummer Deduction" because many businesses have used this tax code to write-off the purchase of qualifying vehicles at the time (like SUV's and Hummers) - but that particular benefit of Section 179 has been severely reduced in recent years. Today, Section 179 is one of the few incentives contained in any of the recent Stimulus Bills that actually helps small business. Although large businesses also benefit from Section 179 or Bonus Depreciation, the original target of this legislation was much needed tax relief for Small Business - and millions of small businesses are actually taking action and getting real benefit.

#### Essentially, Section 179 works like this:

When your business buys certain items of equipment, it typically gets to write them

off a little at a time through depreciation. In other words, if your company spends \$50,000 on a machine, it gets to write off (say) \$10,000 a year for five years (these numbers are only meant to give you an example.)

Now, while it's true that this is better than no write off at all, most business owners would really prefer to write off the entire equipment purchase price for the year they buy it.

In fact, if a business could write off the entire amount, they might add more equipment this year instead of waiting. That's the whole purpose behind Section 179... to motivate the American economy (and your business) to move in a positive direction. For most small businesses (adding total equipment, software, and vehicles totaling less than \$500,000 in 2011), the entire cost can be written-off on the 2011 tax return.

For large businesses adding even more than \$500,000, the write-offs are just as substantial. See the following graphic for an example of the savings that is currently available to you after the 'Tax Relief Act of 2010' passed in December 2010.

#### Limits of Section 179

Section 179 does come with limits - there are caps to the total amount written off (\$500,000 in 2011), and limits to the total amount of the equipment purchased (\$2,000,000 in 2011.) The deduction begins to phase out dollar-for-dollar after \$2 million is spent by a given business, so this makes it a true small and medium-sized business deduction. After the recent passage of the 'Tax Relief Act of 2010', large businesses that exceed the \$2 million in capital expenditure threshold can take a bonus depreciation of 100% on the amount that exceeds the limit.

#### Who Qualifies for Section 179?

All businesses that purchase, finance, and/or lease less than \$2 million in new or used



business equipment during tax year 2011 should qualify for the Section 179 Deduction. If a business is unprofitable in 2011, and has no taxable income to use the deduction, that business can elect to use 100% Bonus Depreciation and carry-forward to

a year when the business is profitable. Most tangible goods including "off-the-shelf" software as well as business-use vehicles (restrictions apply) qualify for the Section 179 Deduction. To qualify for the Section 179 Deduction, the equipment and/or software purchased must be placed into service between January 1, 2011 and December 31, 2011. The deduction begins to phase out if more than \$2 million of equipment is purchased - in fact, the deduction decreases on a dollar for dollar scale after that, making Section 179 a deduction specifically for small and medium-sized businesses. However, as noted above, large businesses can expense all qualifying capital expenditures with 100% Bonus Depreciation for the 2011 tax year.

#### What's the difference between Section 179 and Bonus Depreciation?

The most important difference is both new and used equipment qualify for Section 179 Deduction (as long as the used equipment is "new to you"), while Bonus Depreciation covers new equipment only. Bonus Depreciation is useful to very large businesses spending more than \$2 million on new capital equipment in 2011; also businesses with a net loss in 2011 qualify to deduct the cost of new equipment.

Continued on next page



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## Continued from page 10 Energy Matters

### *Portfolio Customer Considerations:*

With the colder weather, short-term and index prices have rallied to their highest levels in months in the Northeast. Opportunistic hedging for the balance of the winter can reduce the risk that weather presents and reduce exposure to the volatility of the short-term and index markets. This strategy will clearly vary by market, as there is higher winter weather risk in the Northeast than there is in California.

Be sure to maintain a forward-looking strategy. Prices have moved up off of their low points but they remain very low from a long-term/historical perspective. Even if you believe there will be more downside, a layering approach could include initial hedges now to manage risk and guarantee participation in low prices, while allowing opportunity to capitalize if the market falls further in the future.

If purchases are deferred, establish specific target prices and deadlines based on recent market movements and your specific price targets (budget, previous year costs, etc), and be sure to consider market risks, including extreme winter and summer weather, and price correlations with broader markets. Don't become paralyzed if the bottom of the market is behind us. As always, consider your budget and/or year-on-year comparison and consult with your Portfolio Strategist regarding the appropriate strategy for you.

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## Continued from page 11 Manufacturing Matters

The company will pay a huge price for that for years to come. Robert Cole, who has spent a career studying quality, in a pre-publication draft of an article states: "It doesn't matter how much the media hyped the problem or the politicians politicized it. Customer perception is the final arbiter. Therefore, those customer perceptions translate into a serious quality problem for Toyota." (Cited with permission from the author)

Hence the deeper lessons to be drawn here about the Toyota Way and the Toyota Production System. Toyota's aspirational practices remain exemplary and serve brilliantly as a north star for any individual or organizations seeking similar levels of excellence. But, true excellence doesn't stop at the end of the assembly line or confine itself to the engineer's lab or the executive suite. Excellence extends everywhere. From engineers to receptionists. It is as strong as the weakest link the chain of providing customer satisfaction. Anything we can call the "Toyota Way" or "Your Way" is the actualization of how we do everything we do, everywhere we do it: designing, making, selling, servicing, HR policy-making, legal compliance-ensuring. Opening and closing our doors every day for our employees and customers.

## Continued from page 6 Legislative Matters

A copy of the Bill can be seen on the following link: <http://www.assembly.state.ny.us/leg/?bn=A05021&term=2011>

The Manufacturers Alliance has long advocated for passage of a long term economic development power program. Recharge New York, when passed, will provide manufacturers and energy intensive businesses the opportunity to access reliable low cost power in a long term contract, allowing them to create broader business plans, invest in capital, and sustain and grow much needed jobs. The Alliance applauds Assemblyman Cahill, Senator Maziarz, and Governor Cuomo for their efforts, and looks forward to working with the Administration, Legislature and NYPA to see this much needed legislation pass into Law.

As you can see, this is a newly introduced bill. You are encouraged to call your legislators and ask them to Co-sponsor this critical legislation. To access your assembly member and their contact information, please visit [www.assembly.state.ny.us](http://www.assembly.state.ny.us) or call the Council of Industry office at (845) 565-1355 and we will be happy to assist you.

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## Continued from page 14 Financial Matters

When applying these provisions, Section 179 is generally taken first, followed by Bonus Depreciation - unless the business has no taxable profit in 2011 (the unprofitable business is allowed to carry the loss forward to future years).

### Section 179's "More Than 50% Business-Use" Requirement

The equipment, vehicle(s), and/or software must be used for business purposes more than 50% of the time to qualify for the Section 179 Deduction. Simply multiply the cost of the equipment, vehicle(s), and/or software by the percentage of business-use to arrive at the \$amount eligible for Section 179.

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