

October 2010

The Manufacturers Association of the Hudson Valley

Volume 14 Issue 9

What a Wonderful Day for Golf

After being rescheduled from the original August 23rd date because of poor weather conditions, the Council of Industry's Annual Golf Outing enjoyed a beautiful day on September 24 at the Powelton Club in Newburgh, NY. The change in date caused a few change ups in the foursomes but overall the majority of the groups were able to make it on the new date, with 56 golfers in attendance. The winner of best ball and recipient of the coveted Council Cup was Vanacore, DeBenedictus, DiGiovanni & Weddell, LLP, CPAs. The team of Direct Energy Business and Alcoa Fastening Systems won the infamous game of Yellow Ball.



The winning team from Vanacore, DeBenedictus, DiGiovanni & Weddell.

With the sun shining on a lovely autumn afternoon at the Powelton Club, golfers enjoyed a delicious pre-outing lunch sponsored by **The Reis Group** and **Applied Underwriters**. The \$10,000 hole in one was also courtesy of **The Reis Group**. Attendees received Adidas golf shirts provided by **Direct Energy Business** and a variety of other giveaways from Riverside Bank, The Reis Group, and Applied Underwriters. After all the stokes were counted, golfers were treated to a fabulous cocktail hour sponsored by the **Council of Industry's Board of Directors**. We would like to thank everyone that came out to support the Council of Industry and Hudson Valley manufacturing, especially the following



The Direct Energy Business—Alcoa Fastening Systems Team, winner of Yellow Ball.

members that purchased tee signs:

- Jabil**
- Balchem Corp.**
- Blooming Grove Stair**
- Jackson Lewis LLP**
- Riverside Bank**
- Ulster Insurance Services**
- Verticon LTD**
- Dynegy**
- Package Pavement Co., Inc.**
- Direct Energy Business**

- Alcoa Fastening Systems**
- BASF**
- Eastern Alloys, Inc.**
- Pawling Corp.**
- Rondout Savings Bank**
- Ulster Savings Bank**
- HRP Associates**
- The Chazen Companies**
- AMI Services, Inc.**
- Rose & Kiernan.**

Save the Date—Nov 12 the Council of Industry Luncheon and Expo

Mark your calendars now because on Friday, November 12th, the Council of Industry is holding its Luncheon and Member / Associate Member Expo at the Powelton Club in Newburgh, NY. The Expo is an excellent opportunity for manufacturers and businesses that work with manufacturers to network and promote their products and services. Last year we had over 130 members of Hudson Valley industry in attendance. This is also an opportunity to celebrate the achievements of those individuals that have completed their Certificate in Manufacturing Leadership. The Expo and cocktails will begin at 11:30 am, followed by a superb lunch and an address by the keynote speaker. The cost to attend is \$50 per person or \$350 for a table of eight.

The Expo portion of the event is always a highlight. This is a chance to show your wares so to speak to our members, let them know about the products and services your company offers. Space is limited, and we had to turn away people last year, so sign up for an Expo table early. There is no cost to have a table at the Expo, but we do ask that at least two people from your company attend the luncheon. To reserve a table e-mail Alison Butler at abutler@councilofindustry.org.

The luncheon is a time to honor the Certificate in Manufacturing Leadership recipients. This year we have twelve graduates from Alcoa Fastening Systems, Dynegy, Schreiner MediPharm, Se'lux, and Taconic Farms.

The Council of Industry Annual Luncheon is a wonderful event where our members can network and talk shop with their peers. Watch your e-mail for our e-vite. For more information contact Alison Butler at abutler@councilofindustry.org or (845) 565-1355. Sponsorships make this event possible, if you would like to become a sponsor go to our website for more information <http://www.councilofindustry.org/sponsorship-ads/events.html>.

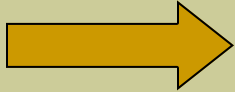
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Training and Education

Early Bird Discount for Certificate in Manufacturing Leadership Courses

The Certificate in Manufacturing Leadership Program has been a source of quality supervisory training for Council of Industry members for more than twenty years now. As part of CI's effort to make this training affordable to all of our members we are offering a valuable discount to companies that register and pay for individual Certificate in Manufacturing Leadership classes or the entire program by December 31st, 2010. For companies with more than one employee in the program or attending the same class the savings is even greater. For specific discounted rates see the table below.

Register and pay before December 31, 2010, to receive these great training discounts.



	Single Member	Two or More From Same Company
One Day Course	\$200.00 before discount \$185.00 with Early Bird discount	\$175.00 before discount \$160.00 with Early Bird discount
Fundamentals of Leadership	\$400.00 before discount \$370.00 with Early Bird discount	\$350.00 before discount \$320.00 with Early Bird discount
Entire Program	\$1,700.00 before \$1,600.00 with Early Bird discount	\$1,550.00 before discount \$1,450.00 with Early Bird discount

All courses are full-day classes (from 9am to 4:30pm) and are held at Dutchess Community College, Poughkeepsie, NY with breakfast and lunch included on site. Though participants are encouraged to complete the course series for the most comprehensive supervisory education, the Council welcomes individual course registration as well. We have just posted the dates for our 2011 Certificate Courses on our website www.councilofindustry.org and click on **Training**. For more information contact the Council of Industry at training@councilofindustry.org or call (845) 565 -1355.

New! OSHA 10 Hour General Industry Class

Sign up now for the Council of Industry's **OSHA 10 Hour General Industry Class**. The 10-hour General Industry Outreach Training Program is intended to provide an entry level general industry workers broad awareness on recognizing and preventing hazards on a general industry site. The training covers a variety of safety and health hazards which a worker may encounter at a general industry site. OSHA recommends this training as an orientation to occupational safety and health. Workers will receive additional training on hazards specific to their job. Training will emphasize hazard identification, avoidance, control and prevention.

When: November 3rd and 4th from 8:00 am—1:00pm

Where: Dutchess Community College, Poughkeepsie NY.

Instructor: Jeff Sotek, PE, CSP, CIH, Senior Project Manager, HRP Associates, Inc.

Cost: \$ 120 per person, \$110 each for two or more from the same company, \$145 for non-members.

To register : Go to http://www.councilofindustry.org/programs/category_courses.html or e-mail training@councilofindustry.org or call (845) 565-1355.



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Council News

I-9, H1-B, E-verify, Oh My!

I-9, H1-B Visas, FAR E-verify, hiring someone from outside of this country requires a lot of forms, paperwork and patience. On Friday, September 24th, the CI Human Resources Sub-council met with Otieno Ombok from Jackson Lewis LLP to discuss current immigration issues. Mr. Ombok was able to give members a great deal of information on the variety of visas available and the requirements to obtain them, he also spoke about the increase in I-9 audits and gave participants information on the FAR e-verify rule.



Mr. Ombok explained the requirements that must be met for H1-B Visas, the process to apply and receive one, and he covered what the H1-B cap is and what positions are exempt from that cap. Ombok covered what an audit would entail. There are a variety of alternative visas available depending on the country of origin. Since 9/11 immigration regulations have changed and it is important to consider these issues early in the hiring process because they require a great deal of time, money, and commitment.

The I-9 form has under gone changes over the last two years and the latest forms are available at www.uscis.gov. Certain documents are no longer acceptable and all documents must now be unexpired. Mr. Ombok covered the timeframe requirements for I-9s and the acceptable documents with the caution not to over document because it can send up a red flag. Unfortunately, because of time constraints and the volume of information, Mr. Ombok was unable to cover the e-verify option but the PowerPoint presentation which was rich in information and online resources was made available to all attendees.

The next Human Resources Sub-council Meeting will be on FMLA, ADA, and Workers Comp. It will be held on Wednesday, November 17th from 8:30 – 10:00 am at the Council of Industry Offices, the Desmond Campus, Mount St. Mary College, Newburgh, NY. The presentation will be by Devora Lindeman, Esq., Senior Counsel, Greenwald Doherty, LLP.

To register please contact Alison Butler at abutler@councilofindustry.org or call (845) 565-1355.

EHS Sub-council Meeting: OSHA Updates

On Friday, **October 22nd**, from **8:30-10:00 am**, the Environment Health and Safety Sub-council will meet to discuss the changes taking place at the Occupational Safety and Health Administration. The meeting will be held **at Rose & Kiernan in Fishkill, NY.**



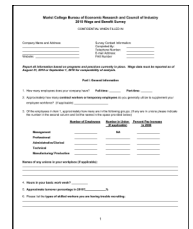
As part of the Alliance between the Council of Industry and OSHA, we will have representatives from OSHA present to discuss the latest changes and updates issued by the agency including the proposed Standards Improvement Project, the Severe Violators Enforcement Program, and President Obama's Protecting Our Workers and Ensuring Reemployment (POWER) plan. There will also be plenty of time for your own questions about OSHA issues.

There is no cost to attend this meeting for members of the Council of Industry. To register please contact Alison Butler at abutler@councilofindustry.org or call (845) 565-1355.

Take Part in the 2010 Wage & Benefit Survey

With the help of Dr. Ken Sloan, Marist College, and our Human Resources Sub-council we have developed a survey that will provide useful and meaningful data while also being easy to complete. Participation in the survey is critical to its usefulness.

The more companies that participate, the more valuable and reliable the data will be. I therefore encourage you to put aside some time to complete the survey to the best of your abilities. *Results will be shared only with companies that return completed surveys.*



Some key information :

- Completed surveys should be returned to Dr. Sloan no later than October 22th.
- Wage data must be reported as of August 31, 2010 or September 1, 2010 for comparability of analysis.
- Questions can be directed to Harold King at hking@councilofindustry.org or Dr. Sloan ken.sloan@marist.edu

Last year's survey was excellent with thirty two companies participating. We expect this year's survey to be even more useful as we will be able to now make comparisons to with last year's data as well as national and regional trends.

If you have not received a copy of the survey via e-mail please contact Alison Butler at abutler@councilofindustry.org or call (845) 565-1355.

Personnel Matters

The Paycheck Fairness Act (H.R. 12) was passed by the U.S. House of Representatives on January 9, 2009, by a vote of 256 to 163. An identical bill was introduced then in the Senate by former Senator Hillary Clinton (D-NY), but the Senate never voted on the bill.

Senator Reid Re-Introduces Paycheck Fairness Act

From JacksonLewis.com

Despite reports of a narrowing wage gap between male and female workers, Senate Majority Leader Harry Reid (D-NV) has re-introduced the Paycheck Fairness Act (S. 3772) and placed the pay equity proposal on the legislative calendar. If passed, the Act would expose employers to far greater liability than now exists.



The Act would fundamentally change the Equal Pay Act of 1963 (EPA). The EPA prohibits employers from paying women less than men for performing the same or “substantially equal” work in the same “establishment,” except for specific reasons.

Under the proposed law, to defend against discrimination claims, employers must demonstrate that any pay differential is based on a “bona fide factor other than sex, such as education, training, or experience” and is “consistent with business necessity,” among other requirements. Further, the legislation would expose businesses to unlimited compensatory and punitive damages and weaken the EPA’s procedural requirements for class action litigation. The bill also seeks to broaden the definition of “establishment.”

A [USA Today article](#) (published the same day Senator Reid re-introduced the Act) documents our existing anti-discrimination laws are working. After conducting its own analysis of current data, USA Today reported, “Women have been moving into high-paying professional

jobs.... At the same time, men have been moving just as fast into relatively low-paying jobs... long dominated by women.”

According to a September 16 [U.S. Census Bureau report](#), “The me-

dian earnings of all working males 15 years old and over... in 2009 [was] not statistically different from their 2008 median, while the earnings of their female counterparts increased by 1.9 percent....” Further, the report says, “The number of men who worked full-time, year-round decreased by 3.8 million (to 56.1 million), and the number of women who worked full-time, year round decreased by about 939,000 (to 43.2 million) between 2008 and 2009.”

Commenting on the decision to re-introduce the Act in the Senate, Jackson Lewis Partner Jane McFetridge said, “If passed, the Paycheck Fairness Act will doubtlessly increase litigation and do very little to actually address the problems it purports to remedy. Its passage will burden American businesses and, derivatively, the American working public, a significant percentage of which is female. American businesses do not have limitless coffers, particularly in these tough economic times. The increased costs to business caused by this Act will necessarily prompt reductions in other areas, including lost jobs, limitations on benefits, and pay cuts, to name just a few. We have made significant and continuing advancements towards pay parity and we would be better served now by focusing on things that have been shown to actually work, such as programs fostering education for women and their advancement in higher paying, non-traditional fields.”

Renewed focus on the Paycheck Fairness Act may have been prompted by President Barack Obama’s public endorsement of the Act this past July. In coordination with the President’s endorsement, the White House’s Equal Pay Enforcement Task Force released a [report](#) identifying five “persistent challenges” in equal pay enforcement. The Task Force brought together the Equal Employment Opportunity Commission (EEOC), the Department of Justice (DOJ), the Department of Labor (DOL), and the Office of Personnel Management (OPM) to focus on violations of equal pay laws.

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More Personnel Matters

3 Keys to Effective Employee Training

From HR.com

1. Recognize Your Training Responsibilities

Too many managers think that employee training is "someone else's job". Even if your company has someone in charge of training, those who hold supervisory roles bear responsibility when it comes to employee training and development. If you want to lead a peak performing team, you must be prepared to coach and train your team members to excel.

Managers at every organizational level are responsible for making sure that the employees on their teams have the skills needed to perform the work required. Accomplishing this managerial duty involves providing effective training to team members about company policies and procedures and industry standards, as well as recognizing the need for skill-based training and making sure that it is available to employees who need it.

2. Engage in Ongoing Employee Skill Development

Managerial training responsibilities extend far beyond simply going over work procedures and sending employees to classes when they need to master a new skill. Effective workforce training is an ongoing process that requires supervisors to engage in ongoing skill development with their employees. Managers must engage in informal training needs assessment on an ongoing basis, paying attention to employees' strengths and weaknesses and identifying gaps that can be overcome through training opportunities.

Too often, supervisors feel that once information has been covered with employees, then training has occurred. However, the fact that an employee sits through an orientation or training session doesn't really mean that he or she has sufficiently mastered the knowledge or skills he or she needs. Supervisors must take proactive steps to allow employees to demonstrate mastery of training objectives, to offer feedback, coaching, and mentoring and to make additional skill development activities available as needed.

Effective workforce training is an ongoing process that requires supervisors to engage in ongoing skill development with their employees.

3. Convey "What's in It" for the Trainees

In order for employee training to be successful, trainees must know up front how any educational activity they are asked to participate in is relevant to them. When a training program is announced, be sure to specify what employees are likely to get from participating and reinforce that message with consistency throughout the training. Skilled trainers know that helping employees see "what is in it for them" is essential to success.

Avoid conveying the idea that employees must pay attention to the training because it's important to the company or the supervisor. Employees who participate in training because they have to do so aren't likely to retain or transfer what is covered. Those who see how mastering new skills can benefit them in their jobs are much more likely to be engaged in the learning process and actually apply what they learn on the job.

Consumer Price Index - August 2010

				Point	%	% Increase
Wage Earners & Clerical	Jul.'09	Jul.	Jun.	Increase	Month	Year
1967=100	628.97	638.05	637.14	0.91	0.1	1.4
1982-84= 100	211.16	214.21	213.90	0.31	0.1	1.4
All Urban Consumers						
1967=100	646.54	653.97	653.07	0.90	0.1	1.1
1982-84=100	215.83	218.31	218.01	0.30	0.1	1.1

Hudson Valley Unemployment Rate for August 2010 = 7.2 %



DAVID L. LANDESMAN
PRESIDENT

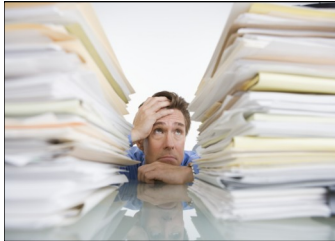
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Legislative Matters

Businesses will now have to issue more paperwork every time they pay rent for their offices, buy new equipment to make their workers more efficient or increase capacity, or simply purchase basic office supplies like coffee and paper towels for their break rooms.

Health Care Bill's 1099 Reporting Burdens



One of the most burdensome and least publicized provision in the Patient Protection and Affordable Care Act (PPACA) is a new requirement that businesses report more information on their activities to the Internal Revenue Service. This new requirement will force businesses to divert scarce resources to complying with additional bureaucratic red tape that they could better use creating new jobs.

Businesses currently have to report to the IRS all payments of \$600 or more to *individuals* for the performance of services on 1099 forms. This makes it harder for individuals to avoid paying taxes on income they earned from businesses that did not employ them full-time. The PPACA expanded this requirement to include all transactions with *other businesses* of more than \$600, including those involving tangible goods.

This provision takes effect in 2012, and Congress estimates it will raise \$17 billion over 10 years. It was one of 18 separate tax hikes that are part of the law that, combined, will increase taxes more than \$500 billion over 10 years.

Few observers recognized the trouble the 1099 reporting requirement would cause businesses at the time Congress passed the PPACA, but the bureaucratic burden the 1099 reporting requirement will put on businesses will be immense. Businesses conduct numerous transactions with other businesses that often cost more than \$600. Businesses will now have to issue more paperwork every time they pay rent for their offices, buy new equipment to make their workers more efficient or increase capacity, or simply purchase basic office supplies like coffee and paper towels for their break rooms.

Continued on page 15

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BIPAC to make endorsements in Mid-October

BIPAC, a New York State Political Action Committee that supports a pro-growth manufacturing agenda, will make its endorsements later this month in select Assembly and Senate Districts across the state, including in the Hudson Valley.

BIPAC will make its endorsement decisions based on priorities and issues that have been identified by New York's manufacturers. These issues include: Reform of the workers compensation system, reduction of healthcare costs, improvement of the energy supply and the cost of energy, reduction of the tax burden, easing the burden of Medicaid of municipalities, increasing the resources available for workforce development and job training.

Candidates who have shown support for these issues as well as a genuine understanding of the important role manufacturing plays in our economy will be considered for endorsement by BIPAC.

Council members will be notified of the endorsements once they are made and you are encouraged to share the information with your employees.

Manufacturing Matters

EPA's Expanded Regulatory Agenda

From NAM.com

In mid September the National Association of Manufacturers (NAM) filed a motion in federal appeals court for partial stay against the Environmental Protection Agency's (EPA) planned regulation of greenhouse gas emissions from stationary sources – also known as the “tailoring rule.”

Slated to take effect on January 2, 2011, the tailoring rule will initially apply to power plants and the nation's largest industrial and commercial facilities. However, the EPA is planning to conduct a new rulemaking process to expand to smaller emitters of greenhouse gases – eventually growing to include a large cross-section of the economy.

These regulations will impact manufacturers across the United States. The NAM brief argues that EPA's overreach in imposing this unprecedented regulatory regime – which was never authorized by Congress – will severely damage U.S. competitiveness, destroy jobs, hinder manufacturers' ability to expand their businesses and ultimately undermine economic recovery.

“Our nation continues to face an unemployment rate of 9.6 percent. If the EPA is allowed to continue forward with an overreaching agenda that puts additional and unnecessary burdens on manufacturers and drives up energy costs, it will cause economic harm and instill even more uncertainty into our already fragile economy,” said NAM President John Engler.

The NAM hopes this judicial action will force the EPA to consider the full economic impact of these rules. On the legislative front, Sen. Rockefeller (D-WV) is seeking a Senate vote this year on his bill that would impose a two-year delay on EPA rules for stationary sources. Rep. Rahall (D-WV) has floated a companion plan in the House, which is co-sponsored by Rep. Boucher (D-VA).

Meanwhile, other EPA actions will also impose costly new burdens on manufacturers – creating uncertainty and harming their ability to compete in the global economy. New studies show that two of the EPA's more recent regulatory proposals – to lower ozone limits and place more emission standards on industrial boilers – will increase costs for manufacturers and put millions of jobs in jeopardy.

Ozone Standard

On September 15, the Manufacturers Alliance/MAPI released a

study showing the EPA's proposed ozone standards would cost 7.3 million jobs by 2020 and add \$1 trillion in new regulatory costs per year between 2020 and 2030. While the EPA has publicly acknowledged that its own research shows there is no basis for proposing changing the ozone standards, the Agency continues to move ahead.

Back in March, the NAM submitted comments to the EPA urging federal regulators to abandon plans to tighten the 2008 air quality standard for ozone. Less than two years following promulgation of the 2008 standard, the EPA proposes to “reconsider” the ozone

standard to a range that could triple the number of counties that would be required to implement expensive controls -- further undermining competitiveness and diverting resources from investments in technological innovation. The NAM was joined by a group of 24 state manufacturing associations who signed a joint letter opposing stricter regulation.

Boiler MACT Standard

In addition, the Council of Industrial Boiler Owners (CIBO) released a study on September 15 showing that the EPA's proposed rules to restrict emission limits on industrial and commercial boilers and process heaters could put 300,000 jobs at risk. The CIBO study also concludes that every \$1 billion spent on compliance would jeopardize 16,000 jobs. The EPA published these air emission standards for boilers, including “Maximum Achievable Control Technology” (boiler MACT standards) in June 2010.

The NAM also filed formal comments with the EPA on August 23 to outline manufacturers' concerns with the MACT standards. Although the NAM supports certain aspects of the proposed rules, manufacturers remain fundamentally concerned that the EPA has proposed standards that are not actually “achievable” or “achieved in practice” by existing or new “sources,” as expressly required by the Clean Air Act.

The new rule also has caught the attention of lawmakers. In a letter to EPA Administrator Lisa Jackson, more than 100 members of Congress expressed their opposition to the new boiler MACT standards. They note that the new regulations “could impose tens of billions of dollars in capital costs at thousands of facilities across the country.”

The tailoring rule will initially apply to power plants and the nation's largest industrial and commercial facilities. However, the EPA is planning to conduct a new rulemaking process to expand to smaller emitters of greenhouse gases – eventually growing to include a large cross-section of the economy.

EHS Matters

Environmental Risks - A Hidden Danger to Your Business[®]

By Stephen J. Myers, CEP, CPEA, The Chazen Companies

BP has helped bring the subject of environmental risk to center stage. Tragedies of this magnitude tend to do so, just like the prior Exxon Valdez spill or the Bhopal chemical release before that. But while most people understand the risks inherent in a tragedy of this magnitude, there are in fact many, many small pieces of a business' operations that can create your own perfect storm of environmental distress.

There are many types of risk inherent in any business in today's volatile world. Most companies wouldn't dream of going without an accounting team (even of one), a production team, or a personnel team. Yet environmental risks are somehow considered discretionary. So what about environmental risk? Every company—large or small—has some degree of exposure. Whether it is the potential for environmental incidents, damages, health-related risks to staff and customers, or product liability, companies today need to have a plan to manage such risks and deal with any consequences that arise in order to preserve a company's well-being overall.

Now, you may say, "this can't happen to us" or "but we're in compliance," or "we don't really have environmental problems." These are common refrains, but remember that the consequences of not planning for this risk can be enormous. The takeaway here is that the risk can be potential, perceived, or real. BP has deep pockets to cover the billions and billions we hear they are paying to affected groups, but even they could be toppled by the claims yet to emerge. In our litigious society and with the general population (think customers) —not just environmental

groups—demanding accountability and transparency from companies, it's smart to put a plan in place ahead of time to review and manage any environmental risks, as well as a plan for how to deal with the potential problems or issues that may arise associated with the risks. Lawsuits these days are often about finding the money, not necessarily the cause or blame. Reputational risk has put many a company out of business where the facts were ignored or misunderstood. Don't leave you and your company at risk of something that can be avoided if planned for properly.

If you haven't done so already, elevate environmental risk into the critical tier of business strategy and implement a sound environmental risk management program. This program should systematically identify, assess, quantify, and prioritize the respective environmental risks to the business. Develop a risk reduction plan that should follow an "eliminate, manage, or transfer" hierarchy. Think about all aspects of your business, too—staff, operations, supply chain, customers, and products. By evaluating each risk based on its significance and probability a ranking of priority can be established. The outcome of

this effort will be to reduce uncertainty and exposure to loss, quantify potential liabilities, improve allocation of resources, and reduce and manage the probability of significant threats. In so doing, your business can improve your environmental stewardship with a reduced environmental footprint while at the same time gaining an elevated reputation in the marketplace.

Here's a list of some considerations to take into account when developing your plan:

- Lack of operational regulatory environmental permits due to non-compliance

with environmental rules,

- Construction delays from discovery of unknown site contamination,
- Disruption of the supply chain through lack of availability of critical natural resources (e.g. certain wood, metals, or chemicals);
- Volatility/reliability and cost of energy based on its type (e.g. fossil fuels or renewables), its source (utility, on-site generation), the method of distribution, and emission potential (air pollutants);
- A shutdown due to an unanticipated release or spill (again, two letters—BP);
- Lack of availability of adequate process water;
- Weather-related impacts to facilities (severe storms, floods, drought, climate change);
- The financial risks related to changes to accounting rules, disclosure of environmental liabilities, governance and transparency; and

The legal risks from third-party toxic tort lawsuits.

Superior environmental performance and business success are not mutually exclusive. By getting your arms around your company's environmental risks and getting out ahead of this issue, you could be avoiding a fatal threat while positioning your firm to be the best-in-breed.

Stephen J. Myers, CEP, CPEA is the corporate vice president of Chazen's Environmental Services organization.



Elevate environmental risk into the critical tier of business strategy and implement a sound environmental risk management program.

CI Calendar—What’s Ahead

Oct 6	Refresher Training: RCRA Hazardous Waste - 8:30 am–12:30pm at Dutchess Community College, Poughkeepsie, NY. Cost: \$120 for a single participant, \$110 each for two or more from the same company. Instructor: HRP Associates.
Oct.14	Customer Service Training - 8:30 am–4:30pm at Alcoa Fastening Systems, Kingston, NY. Cost: \$185 for a single participant, \$170 each for two or more from the same company. Instructor: Debra Pearlman, CEO of DP Sales Pro.
Oct 20	Refresher Training: HAZWOPER — 8:30 am–4:30pm at Dutchess Community College, Poughkeepsie, NY. Cost: \$240 for a single participant, \$220 each for two or more from the same company. Instructor: HRP Associates.
Oct 22	EHS Sub-council Meeting: OSHA Update — 8:30 - 10:30 am at Rose & Kieran, Fishkill, NY. No cost for members. Call (845) 565-1355 or e-mail abutler@councilofindustry.org to register.
Oct 22	Wage & Benefit Survey Data is due! For more information or to receive a copy of the survey, e-mail abutler@councilofindustry.org or call (845) 565-1355.
Oct 28	Sales Training — 8:30 am–4:30pm at Alcoa Fastening Systems, Kingston, NY. Cost: \$185 for a single participant, \$170 each for two or more from the same company. Instructor: Debra Pearlman, CEO of DP Sales Pro.
Nov 3 & 4	OSHA 10 Hour Course - 8:00 am–1:00 pm both days at Dutchess Community College, Poughkeepsie, NY. Cost: \$120 for a single participant, \$110 each for two or more from the same company. Instructor: Jeff Sotek, HRP Associates.
Nov 17	HR Sub-council Meeting: FMLA, — 8:30 - 10:30 am at the Council of Industry Offices, the Desmond Campus MSMC, Newburgh, NY. No cost for members. Call (845) 565-1355 or e-mail abutler@councilofindustry.org to register.

You can find more information on the courses and events listed in our calendar by going to our website—www.councilofindustry.org or if you are reading our electronic version just press Ctrl + click the course title.

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Health Care Reform Update

Recently issued interim final rules for health plans and insurance issuers relating to preexisting condition exclusions, lifetime and annual limits, rescissions, and patient protections.

Preexisting Condition, Lifetime and Annual Limit, and Other Health Plan Rules Recently Issued

From BS&K Employee Benefits Law Action Memo

Pursuant to the Patient Protection and Affordable Care Act ("PPACA"), the Internal Revenue Service, the Department of Labor ("DOL"), and the Department of Health and Human Services (collectively, "the agencies") recently issued interim final rules for health plans and insurance issuers relating to (1) preexisting condition exclusions, lifetime and annual limits, rescissions, and patient protections

Pre-existing Condition Exclusions. Under the new rules, no group plan or issuer (except grandfathered plans that are individual insurance coverage) may impose a preexisting condition exclusion for any enrollee under age 19 in plan years beginning on or after September 23, 2010, and any enrollee (regardless of age) in plan years beginning on or after January 1, 2014. The definition of "preexisting condition" includes any denial of coverage based on a preexisting condition (i.e., not just benefits related to the condition).

Lifetime and Annual Limits. Effective for plan years beginning on or after September 23, 2010, all group plans and issuers (with the exception of certain account-based health plans and grandfathered plans that are individual insurance coverage) are prohibited from imposing lifetime or annual limits on the dollar value of "essential health benefits." Until further guidance is issued, the agencies will take into account the consistent application of good faith reasonable interpretations of the term "essential health benefits" as applicable to the lifetime and annual limit prohibitions.

In an effort to provide transitional relief, the rules do permit plans and issuers to impose the following "restricted annual limits" ("RALs") in plan years beginning before January 1, 2014:

For plan years beginning on or after -- Restricted Annual Limit

September 23, 2010 but before September 23, 2011 \$ 750,000

September 23, 2011 but before September 23, 2012 \$ 1.25 million

September 23, 2012 but before January 1, 2014 \$ 2 million



The rules clarify that the RALs are minimums for plan years beginning before January 1, 2014, i.e., plans or issuers may impose higher limits or no limits. Generally, grandfathered plans that impose new limits or reduce the amount of an annual limit (in existence as of March 23, 2010) will lose grandfather status. Note, a grandfathered plan with an existing lifetime limit (as of March 23, 2010) and no existing annual limit, may impose a new annual limit (subject to the applicable RAL minimum) and retain grandfather status by eliminating the existing lifetime limit.

Certain limited benefit plans or policies (i.e., "mini-meds") may be eligible for a waiver program, in cases where annual dollar limits fall below the RAL minimums, and compliance would result in a significant decrease in access to benefits or a significant increase in premiums for enrollees or policyholders. HHS Guidance on the waiver application process is expected to be issued in the near future.

Lifetime Limit Notice. Individuals who have lost coverage because of reaching lifetime limits, and who would otherwise be eligible for coverage, must be given notice that the lifetime limit no longer applies.

Continued on page 15



Fidelity NavigatorSM
Mutual Fund Newsletter

The Fidelity Navigator will be coming to your desk monthly, courtesy of the Council of Industry's endorsed 401(k) company.

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Energy Matters

Energy Efficiency and Surviving the Recession

From Suez Energy

Whatever your view of today's economy, energy efficiency makes good business sense. Today energy prices are relatively low compared to recent periods and many prognosticators foretell of possible spiking energy prices when the good economic times return. Opportunities for repair, replacement or process modifications open the door to make decisions today that will impact operating costs down the road. Investing in energy efficiency makes sense in all types of economic periods.

Amory Lovins, Chairman of the Rocky Mountain Institute, an energy conservation think tank, states in an interview with McKinsey that most companies behave like they are capital constrained and energy efficiency projects tend not to get attention because energy is often a small percentage of the business cost. These project impacts do not rise to the priority level most strategists care about, overlooking the fact that savings, where ever they originate, fall directly to the bottom line. For instance, small increases in expenditures for high efficiency lighting can shave dollars per square foot off of the annual energy bill of an office building. Sum up these savings over time and find that, though they may not make the payback requirement for capital investment, over the life of the replacement fixture they make a significant contribution to the bottom line. Taking care of small opportunities when they arise could add up to recognized savings over time.



Most executives make the mistake of assuming that the smart engineers have already done everything possible to reduce this cost. For the most part, engineers have taken advantage of the proverbial low hanging fruit. This is particularly true in manufacturing where energy represents a bigger cost than in most other sectors. Some have even gone so far as to conduct a contest down on the shop floor to look for new ways to reduce waste and save energy. After twelve years and 900 implemented ideas and projects later, one such company's activities have resulted in 173 percent return on investment and added \$110 million to the company's bottom line. Not only does this type of activity produce savings from one time projects, but it cultivates a culture of curiosity and measurement that can bring about continuous improvements to reduce waste and conserve energy which continues to bring dollars to the earnings of the company.

Energy savings contribute to the bottom line, but can a competitive advantage be derived from an energy efficient building? Lovins cites studies that conclude that buildings with better thermal, visual and acoustic comfort allow people to be anywhere between 6 to 16 percent more productive. Increased productivity can drive a competitive advantage in cost reductions or increased output and sales. Well lit retail stores utilizing day lighting show increased sales with claims ranging up to 40%. Schools have reported faster learning for many of the campuses where day lighting was utilized to reduce energy consumption. The Wall Street Journal wrote a couple of articles that attributed energy efficient building design and utilization of day lighting in an aerospace design firm as a competitive advantage due to reduced overhead costs and increased productivity.

Opportunities for repair, replacement or process modifications open the door to make decisions today that will impact operating costs down the road. Investing in energy efficiency makes sense in all types of economic periods.

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Member Profile

Member Profile: TRMI
(The Revenue Markets, Inc.)



Founded: 1974

Location: Accord, NY

Employees: 40+

Website: www.trmi.com

One of the reasons for TRMI's success is because it is one of the few system integrators that also manufactures its own equipment. TRMI's design and project management team stay with each project from the proposal stage through installation and commissioning.

The next time you are on a highway or crossing a bridge, take an extra moment or two to admire the technology that allows the tolls to be collected so efficiently. TRMI, or The Revenue Markets, Inc., is most likely the company that manufactured the toll collection equipment and software. In fact, all major toll authorities in the northeast buy either their systems or equipment from TRMI.

In 1974, TRMI was founded by owners Bob Rosakranse and son Steven. In the beginning they were a manufacturer of treadles, the set of electrical contacts encapsulated in vulcanized rubber housings that vehicles drive over in a toll lane which give outputs based on the number of axles that vehicle has. TRMI still builds treadles in their Accord facility but is also developing the high-tech software and integrating electronics for the machines used on many highways and bridges today. The industry has changed dramatically since 1974, from manual toll collection using simple counters in wooden tollbooths to automated open road tolling using EZPass or similar technologies for non-stop toll collection. TRMI has evolved with the industry to serve their customers.

Today, TRMI manufactures treadles, coin sorters, and a variety of collector terminals and ticket issuing machines for the toll industry. Their main products are software and systems integration services. TRMI is able to design custom operating systems based around their customers' business rules and facilities. TRMI is also able to integrate sensors and electronic

equipment from a wide variety of suppliers to provide state of the art revenue collection systems. They have customers throughout the United States and around the world. Some major installations include the Golden Gate Bridge, Chesapeake Bay Bridge and Tunnel, the New Hampshire Turnpike Authority, the New York State Bridge Authority and the Bay Area Toll Authority in California.

One of the reasons for TRMI's success is because it is one of the few system integrators that also manufactures its own equipment. TRMI's design and project management team stay with each project from the proposal stage through installation and commissioning. With this unparalleled level of customer support TRMI has acquired an extremely loyal customer base, some have retained TRMI equipment for

more than 20 years in an industry where the average system lifespan is between seven and eight years. The company is small enough to be flexible and their technical staff has unmatched experience in the industry.

TRMI's headquarters in Accord, NY, has 30,000 square feet allocated to system development, assembly, and production, including a 15,000 square foot manufacturing area and an outdoor test track. There is a development lab with equipment that includes over 100 lane controllers, work stations, along with routers and servers, comprising over a dozen maintenance support toll systems. According to Tom Kramek, Vice President of Operations,

Continued on next page



Member Benefits

TRMI has saved significantly on energy bills for this facility as a member of the Council of Industry's Electricity Aggregation. As part of the Council of Industry, TRMI has also taken part in a variety of trainings which have contributed to the company's success, such as Project



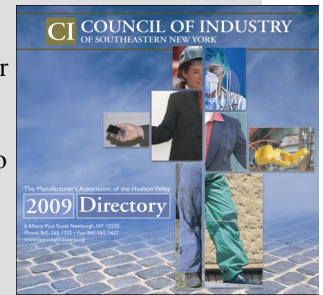
Management, the Certificate in Manufacturing Leadership Program, and Hazardous Materials training. TRMI has been on the cutting edge of toll collection technology and changes in the industry have been dramatic since they installed the first solid state toll collection system on the Golden Gate Bridge in the early 80s. Systems continue to become more automated and with the advent of EZPass –type systems, which have benefited

toll patrons as well by reducing queue times and eliminating many of the delays associated with toll collection. According to Kramek, "The industry is continuing on this path with the next evolution including video tolling, where images of vehicles are captured and processed digitally to allow patrons to be tolled without a transponder (EZPass tag) and two way communications between the on-board computers present in every car manufactured today and intelligent roadside devices which will allow tolling based on millage traveled for each vehicle."

By adjusting to their customers needs and being innovative and vigilant in keeping abreast of the latest technology available, TRMI has been a part of the toll collection industry's evolution. They are an excellent example of a manufacturing company that has been able to not only stay on track through these difficult times, but blaze a path that others might follow.

CI is the Place to Go When You Need to Know

One of the Council of Industry's most vital roles in supporting Hudson Valley manufacturers is as a conduit, connecting members with other members or connecting our members to businesses and organizations outside of the Council. Both our website, and member directory, are full of information for those looking for a specific type of manufacturer, a manufacturing associate, or a government agency. We are proud to be the place manufacturers go when they need to know. To that end, we need your help in keeping our information as up to date as possible.



We are implementing a new data system at the Council of Industry, one which will link directly with the member listings on our website. This new system will make it simpler and more efficient to change our members' information both on our website and in our records. For this system to be as accurate as possible we ask that you go online to our website member listings at <http://www.councilofindustry.org/members/members-alpha.html>, or if you are an associate member go to <http://www.councilofindustry.org/associate-members.html> to check the information we have listed for your company. Please send me an e-mail to abutler@councilofindustry.org, or call me at (845) 565-1355, to let me know of any changes in contact information or personnel.

We have also started to put together the 2011 Member Directory and by ensuring that our online information is as accurate as possible you can help make our member directory better. The information listed on our website is the information that is printed in our annual member directory. The Council of Industry Member Directory is a reference tool used by manufacturers and their associates throughout the Hudson Valley. The CI Member Directory is also an excellent way to advertise your company's products or services to manufacturers in our region. Use this link <http://www.councilofindustry.org/sponsorship-ads/advertising.html> to purchase an ad in the 2011 edition or on our website. Ads come in a variety of sizes and prices to fit your budget and there is a discount if you purchase and pay for your ad by January 1st.

Financial Matters

Mezzanine investors typically seek profitable businesses with growth potential that are unable to obtain all of their capital needs from a bank.

The Mezzanine Market

By Sam Ticknor, Corporate Fuel Advisors

Many mid-sized manufacturers, distributors and other operating companies made it through the recession and are now seeing opportunities for growth; whether it be the acquisition of a less fortunate competitor or the launch of a new product line. Unfortunately, traditional sources of credit such as commercial banks and specialty finance companies remain cautious. This manifests itself in several ways, including :

- Commercial banks appear unwilling to “look beyond” historical operating losses
- Commercial finance collateral advance rates have declined
- Lenders only proceed if collateral is available to support entire loan
- Little or no cash flow credit available

As a result, private companies are exploring alternative means of financing including equity capital. Raising equity capital, however, is quite expensive because a company issues shares or ownership interests in exchange for the cash investment, and existing ownership is diluted.

Fortunately, there is a niche capital market for accessing junior capital called the mezzanine or subordinated loan market. These are debt instruments where the investor agrees to be junior in right of payment to a company’s bank lender in exchange for greater compensation. While this market has its limitations, and it is not appropriate for many situations, loans of this sort are made regularly by a select group of investors.

Mezzanine investors typically seek profitable businesses with growth potential that are unable to obtain all of their capital needs from a bank. Mezzanine debt is used to make investments in companies with predictable cash flow, as it must cover the debt service (principal and interest payments).

Example One

Located in upstate NY, this company is in the tooling and plastic injection molding business, serving the imaging, healthcare, automotive and disposable consumer products

industries. The \$2.0 million mezzanine loan was made along with a \$3.5 million senior facility to finance an acquisition. At the time of funding, EBITDA was \$2.5 million.

Example Two

Located in New Jersey, this company has been in business over 50 years manufacturing specialty cables and assembly components used in the aircraft and automotive industries. The \$2.5 million mezzanine loan was made in conjunction with \$1.0 million of private equity and \$5.0 million of senior debt to finance a management buyout. At the time of closing, EBITDA was \$2.0 million. Exit was realized by the mezzanine investors when the Company was sold to a Fortune 500 company. The loan was repaid at a premium and the warrants were realized at the time of the sale.

The Market

The mezzanine market is a \$500 billion dollar market that is most often accessed by large companies. The investors in this market are insurance companies, pension funds, and specific mezzanine investment funds.

Importantly, mezzanine capital for smaller and mid-sized investments in the \$2.5 million range and above is available today. Those mezzanine investors interested in the smaller and mid-sized investments (\$2-\$15 million range) tend to have a geographic focus.

Accessing Mezzanine Market

Our experience is that to achieve a desirable result, considerable planning and preparation are necessary. Given the nature of the process, it is often best to utilize an agent or financial advisor (1) to assist in preparation of the materials, as it can distract executives from the important day-to-day management of the business, and (2) to approach several investors simultaneously in order to achieve the best terms in the market.

A more detailed summary of specific characteristics regarding the mezzanine market is available upon request. *Sam Ticknor covers upstate New York for Corporate Fuel Advisors (www.corporatefuelpartners.com), a NYC-based investment bank that provides advisory services and capital to mid-sized companies.*

Manufacturers Electricity Aggregation

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Continued from page 8- Legislative Matters

The expanded 1099 reporting requirement will bury businesses in an avalanche of paperwork for often basic and routine activities. Large businesses can more easily absorb the cost of this new bureaucracy with their large legal and accounting teams than small businesses that do not have such manpower. The new requirements will slam small businesses hard, because the paperwork burden will force them to redirect scarce resources from productive activities that could grow the business, add jobs, and pay higher wages to complying with the onerous new reporting requirements.

The IRS itself has said it does not have the capacity to examine all the new 1099s businesses will file. Most of the new 1099s will never pass through an examiner's hands. Instead, Congress believes that the 1099 reporting requirement will compel businesses to report more income to the IRS, because they will all of a sudden either recognize income they were not reporting before or feel it necessary to report income they were sheltering from taxation. Supposedly, if businesses report more income, they will pay more taxes.

Congressional efforts to repeal the provision have so far failed, as have efforts to raise the reporting threshold to \$1,000.

Some examples of transactions that will now require a 1099 to be issued include – a fuel oil delivery, a tractor trailer filling up with diesel, and an office supply purchase.

Continued from page 10 - Health Care Reform

If such individual is no longer enrolled in the plan or policy, he or she must be given notice of the opportunity to enroll (during a special 30-day enrollment period) no later than the first day of the first plan year beginning on or after September 23, 2010. Model language is available at <http://www.dol.gov/ebsa/lifetimelimitsmodelnotice.doc>.

Rescissions. Effective for plan years beginning on or after September 23, 2010, all group plans are prohibited from rescinding coverage except in the case of fraud or an intentional misrepresentation of material fact.

If such rescission is permitted, plans and issuers must provide participants with 30 days notice prior to the date coverage is rescinded. The term “rescission” means any cancellation or discontinuance of coverage that has retroactive effect. Note, retroactive cancellation of coverage due to nonpayment of premiums or contributions does not constitute a “rescission” under the rules.

Patient Protections. For plan years beginning on or after September 23, 2010, all new group plans and issuers that use provider networks must comply with the following rules relating to patient protections:

Choice of Health Care Provider. If an enrollee is required to designate a primary care provider (“PCP”) under a plan or policy: (i) the plan or issuer must permit the enrollee to designate any PCP who is available to accept the enrollee; (ii) the plan or issuer must permit a child-enrollee to designate an in-network pediatrician as his or her PCP (if available to accept the child); and (iii) if a plan or issuer covers obstetrics/gynecological care, the plan or issuer must not require preauthorization before an enrollee seeks services from an in-network OB/GYN provider.

Coverage of Emergency Services. If a plan or issuer covers emergency care in a hospital, the plan or issuer may not require prior authorization for services even if the health care provider is out of network. In addition, plans must not impose coinsurance rates or copayments for out of network emergency services in excess of the amounts that would have otherwise been required for services provided in network. Out of network providers, however, may bill participants for any remaining balance after the plan or policy pays, provided the plan or policy complies with certain cost-sharing requirements.

If you have any questions about this memorandum, please contact Susie Dahline in our Syracuse office (315-218-8227, sdahline@bsk.com)

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