

# NSHBA News



September 2011

## Today Is A Brand New World

*Fall Protection Deadline Was September 15th*

Today is Friday, September 16 and we are all facing a brand new world of OSHA regulation and enforcement. The 90-day phase-in period giving residential construction companies additional time to come into compliance with the Occupational Safety and Health Administration's (OSHA) new "Compliance Guidance for Residential Construction" directive (STD 03-11-002) on **fall protection** ended on September 15. Are you ready?

Here are some tools and resources for members to make it in this brand new world:

- NAHB's OSHA Fall Protection Update dated 9/2/2011: [http://www.nahb.org/fileUpload\\_details.aspx?ContentID=166888](http://www.nahb.org/fileUpload_details.aspx?ContentID=166888)
- NAHB's webinar on **How to Prepare for an OSHA Inspection** –
  - the webinar will be posted in a few days to [www.nahb.org/safety](http://www.nahb.org/safety)
  - the powerpoint version is already posted at [http://www.nahb.org/fileUpload\\_details.aspx?contentID=167102](http://www.nahb.org/fileUpload_details.aspx?contentID=167102)
  - here's a pdf of what to expect with an inspection: [http://www.nahb.org/fileUpload\\_details.aspx?contentID=123063](http://www.nahb.org/fileUpload_details.aspx?contentID=123063)
- NAHB's webinar on **Fall Protection** - [www.nahb.org/fallprotection](http://www.nahb.org/fallprotection)
- **NAHB-OSHA's Jobsite Safety Handbook** – *a must have now!* – and available for only \$11.00 at BuilderBooks.com: [http://secure.builderbooks.com/cgi-bin/builderbooks/150?id=7e7VAB2R&mv\\_pc=60](http://secure.builderbooks.com/cgi-bin/builderbooks/150?id=7e7VAB2R&mv_pc=60)
- NAHB-OSHA's Jobsite Safety Handbook - the **video version** is also available for only \$29.95 (*member price*): [http://secure.builderbooks.com/cgi-bin/builderbooks/618?id=7e7VAB2R&mv\\_pc=153](http://secure.builderbooks.com/cgi-bin/builderbooks/618?id=7e7VAB2R&mv_pc=153)
- From OSHA, **Fall Protection Policies for Residential Construction** video : <http://www.dol.gov/dol/media/webcast/20110812-osha/>
- More information from **OSHA on Fall Protection Safety**: [http://www.osha.gov/doc/residential\\_fall\\_protection.html](http://www.osha.gov/doc/residential_fall_protection.html)

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### NSHBA Mission

We are the unified voice serving the housing industry, providing education and information to government officials, our members and the people of Nebraska.

### Executive Committee

**Allen Barber, President**  
Barber Homes

**Dave Humlicek,**  
**1st Vice President**  
Style Builders

**Mike Gray,**  
**Associate Vice President**  
The Harry A. Koch Co.

**Don Rowe, Secretary**  
Millard Lumber

**Stan Poff, Treasurer**  
Kearney Concrete Co.

**[Board of Directors](#)**  
(click to see list)

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## Safety Management – You Don't Have to do it Alone

Locally, one of the best tools to use to brave this new world is **NSHBA's Safety Program**, provided in partnership with Safety Management, Inc. (SMI). You can download the registration form and program specifics from NSHBA's website: [http://www.nshba.org/pdf/NSHBA\\_Safety\\_Program.pdf](http://www.nshba.org/pdf/NSHBA_Safety_Program.pdf). Members receive discounted pricing for a Safety & Health Program Manual and Education Training Seminars. The written manual is invaluable, specific to the contractor's trade, and designed to allow you to tailor and maintain it for your company. Additionally, SMI is now contacting NSHBA's local associations to determine which training sessions will be offered this fall and next spring. The local associations can also request that specialty classes be offered in their area. If you have an idea or

need for training, contact your local association and let them know! (Local contact information available at <http://www.nshba.org/localassoc/>) HBA of Lincoln and Metro Omaha Builders Association have already scheduled some and more will be added as time goes on. As a member, you are welcome to attend any classes being offered! NSHBA will be compiling a comprehensive calendar, but you can check out the local websites to see what is currently being offered - <http://www.nshba.org/localassoc/>.

Other materials provided with the program are:

- NE Job Safety and Health Poster
- OSHA 300 and 300A Forms
- One Basic First Aid Kit
- Emergency Action Plan Form
- Material Safety Data Sheet (MSDS) binder and outline
- Four Toolbox Meetings ("Toolbox Talks") including Leaders' Guide and Training Roster
- Job Site Inspection Form

Although not part of NSHBA's Safety Program, SMI also offers the OSHA 10-Hour Training course for our local associations. It has already been delivered in Norfolk and Lincoln, and is scheduled in Omaha on September 27 and 28. Contact your local association if you would like this training offered in your area, as well!

- Copy of the 29 CFR OSHA Construction Industry Regulations
- OSHA Poster (in English or Spanish)

## Build-PAC Fundraiser a Success!

On August 30th, NSHBA held a Build-PAC Fundraiser at the Museum of American Speed. It was a great event attended by over 60 NSHBA members from HBA's across the state. The event included touring the museum, as well as cocktails and hors d'ouerves in "Bill's Garage". We want to thank all of the members who supported our efforts to raise money for Build-Pac. Our thanks to both Fred and John Hoppe for their renewal to the Capitol Club. We also signed up eight new Gold

Key members. They are Steve Fulton, Don Wisneski, Bob Kelberlau, Gregg Schwinn, Rick Krueger, Dave Humlicek, Allen Barber and Tim Kenny. Renewing Gold Key are Mike Gray and Jim Christo. We also have seven new Dollar A Day members in the state. They are Tom Hegarty, Mike Rezac, Shane Clausen, Lois Hartsell, Ted Ramm, Greg Shinaut, Stan Poff, and Neil Smith. Thanks also to Julie Hoppe who renewed her Dollar A Day. New to the Century Club are Jo Lewis, Lance Roach, Gene Knaggs, Rick Russell, and Don Rowe. All in all, because of the commitment of the members of our state, we raised \$22,370.00. Congratulations, Nebraska. Great Job!



## News from NSHBA's Task Force

In the fight to delay OSHA regulation and enforcement of fall protection for residential building, NSHBA's OSHA Task Force and Executive Committee Members have been busy meeting with our national representatives: Sen. Ben Nelson, Sen. Mike Johanns, Rep. Lee Terry, Rep. Adrian Smith, and Rep. Jeff Fortenberry was also contacted. The discussions have included jobs, lending issues, impact of OSHA regulation, the Dept. of Labor, the safety education and training NSHBA is doing, and, of course, the economy. We have also asked for unified support for a two-year delay in the implementation of the fall protection directive and for the homebuilding industry.

In early October, a Nebraska delegation will travel to Washington, DC to meet with Dr. David Michaels, Assistant Secretary of Labor, and discuss the impact of OSHA regulation on the day-to-day business of residential homebuilding.

From the data available on [www.OSHA.gov](http://www.OSHA.gov), a tally of OSHA fines for the residential construction industry in Nebraska has been compiled. The timeframe for the following data is July 12, 2010 to July 12, 2011.

General contractors –single family houses	\$15,400
General contractors – residential buildings other than single family houses	\$39,750
Plumbing, Heating and Air Conditioning	\$13,500
Painting	\$79,200
Electrical	\$95,405
Masonry, Stone Work	\$67,718
Plastering, Drywall	\$25,700
Carpentry	\$353,349
Floor laying and other floor work	\$12,600
Roofing, Siding, Sheet Metal Work	\$815,437
Concrete Work	\$5,695
Excavation Work	\$21,560
<b>Total</b>	<b>\$1,505,564</b>

According to the 2009 census, the population of Nebraska is approximately 1,796,619 people. During that one year period of time, OSHA residential construction fines in Nebraska cost each man, woman, and child in the state **\$.83**. Residential Construction is only one of the 83 groups covered in OSHA's jurisdiction.

Examples of recent Nebraska fines:

1) Allied Roofing Systems, LLC 12/7/2010	\$64,000
2) Valley Boys Roofing 10/19/2010	\$26,400
3) Total Home Maintenance 4/12/2011	\$28,000
4) Bambino Construction Inc. 4/13/2011	\$27,600
5) Elite Builders Inc. 5/5/2011	\$42,000
6) Roll Enterprise Inc. 4/28/2011	\$31,000
7) Tu Inc. 10/14/2010	\$19,200

**Know of Anyone Being Fined?** Let NSHBA know! Contact [Executive@NSHBA.org](mailto:Executive@NSHBA.org) to report any fines.



## NSHBA's Safety Corner

September 16, 2011

Provided by:



### Not Your Father's OSHA Anymore

Since its creation in 1970, OSHA's approach was to set minimum standards and help employers meet or exceed them. The success is in the numbers: By 2000 the annual fatality rate had dropped 76%, and has stayed virtually constant since.

But under the leadership of Dr. David Michaels, OSHA's approach has changed dramatically. In April of 2010, Dr. Michaels issued a memorandum to regional OSHA administrators titled "Administrative Enhancements to OSHA's Penalty Policies." This memorandum signaled a shift from OSHA as a compliance organization to OSHA as an enforcement agency. The motivation for this was, according to Dr. Michaels, that "American workers still face unacceptable hazards." Apparently because the number of workers killed on the job has stayed fairly constant after dropping so dramatically in the first 30 years of the OSH Act, Dr. Michaels believes that the stick will save more lives than the carrot.

Historically, if an employer is cited for a violation, OSHA's policy has been to consider several factors that can help an employer discount the nominal penalties:

- Its history of violations
- Its good-faith efforts to implement an effective safety program
- Its "quick-fix" response to abate hazards found during an inspection, and
- Its size

These factors are given a different discount value, such as 10% for history and 15% for good-faith efforts. The discount for size varies according to how many employees a firm has, with the smallest category (1–25 employees) receiving the highest discount. This offers the greatest advantage to building contractors since the overwhelming majority of firms have fewer than 26 employees.

However, OSHA's "administrative enhancements" change the way these discounts and other policies are to be implemented:

- The time frame for considering an employer's history of violations expanded from three years to five.
- If an employer has any high-gravity serious, willful, repeat or failure-to-abate violations in this expanded five-year history, then a 10% penalty can be added.
- The time period for determining repeated violations also expands from three to five years.
- Violations are graded according to their low to high severity, lesser or greater probability, and low to high gravity. A "Gravity-Based Penalty" determines fines that range from \$3,000 to \$7,000.
- The size discount was reduced (the discount for small employers, with 1-25 employees, has been reduced from 60% to 40%).
- If an employer agrees to hire a third-party safety consultant, it's eligible for a 20% penalty reduction.
- OSHA changed the way it adds up multiple discounts. Previously, it would add up the percentage reductions and discount the penalty by the total percentage. Now, they're applied serially (the percentage for each discount factor is applied one at a time to a declining balance), resulting in a higher net penalty.

These changes may never affect your business, since residential building projects don't attract the same scrutiny as commercial projects. But a serious injury or fatality has a way of putting even a small contractor in OSHA's crosshairs – and now, it's using a bigger gun. In light of this, how would you grade your company's safety culture?

## Nebraska State Home Builders Association

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The Voice of  
Nebraska's Home  
Building Industry!

We're on the web!

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## Members: Get Your FREE IBS Expo Pass

### 2012 NAHB International Builders' Show - February 8-11 - Orlando

IBS Time is now! Registration is now open for the building industry's biggest event. Don't miss your chance for a FREE expo pass and to register your spouse for FREE during the month of September ONLY. Make plans today to join your colleagues for four days of non-stop business and networking February 8-11 in Orlando. With more than 50,000 attendees, 1,000 suppliers and nearly 200 education sessions, you'll get a year's worth of value in just 96 hours.

Register in September and receive the best pricing! Hit the Show Running - Learn everything in a few days from running your office more efficiently to negotiating more effectively, to remodeling for aging-in-place clients and building green, to effective presentation skills.

Add it up: **September pricing** -  
Member Registration: \$225  
4 day Expo pass: \$ 0  
Spouse Registration: \$ 0  
TOTAL Registration: \$225!

Register and find more info at  
[www.buildersshow.com](http://www.buildersshow.com)!

**SEPTEMBER ONLY = FREE IBS REGISTRATION**

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## Omaha City Council Requires Licensing

On August 17, 2011 the Omaha City Council passed an ordinance requiring contractors, builders and home remodelers to be licensed to work in Omaha and the city's three-mile zoning area. Licensure consists of pass-

ing a test on building codes and paying the licensing fees of up to \$300 for a three-year period. There is not a grandfathering provision but property owners can do work on their own property without a license.

## "NE Certified Green Builder" Workshop

BUILDING GREEN

Keeping Nebraska and **YOU** in the Green

Open to all who are interested in Green

**A prerequisite to membership to the NSHBA Green Build Council**

October 13, 2011

8:30 – 3:30

**Mahoney State Park**

Cost \$85.00 – includes Park Pass  
(Lunch will be at your expense)

**TOPICS:** Intro to Green Building  
Green Building Guidelines  
What is Energy Star??  
How to certify a Green Build home

**RSVP to Greg Shinaut by October 10th - [greg.shinaut@blackhillscorp.com](mailto:greg.shinaut@blackhillscorp.com)**