



THE MONTEREY CURRENT

September, 2016

INSIDE THIS EDITION:

- News from NECA Government Affairs*
- NFPA 70E PPE Update*
- Countdown to NECA Convention*
- Politico Launches New Website*
- Mechanic's Lien Article- Is It Done Yet?*
- Classes Offered through JATC*
- Congratulations to Those Completing Classes*
- LU #234 Availability List*
- Calendar of Events*



NEWS FROM NECA GOVERNMENT AFFAIRS

Obama Administration Issues Final Regulations and Guidance for "Fair Pay and Safe Workplaces" (aka "blacklisting") Executive Order

On August 24 the [U.S. Department of Labor](#) and the [Federal Acquisition Council](#) announced [final regulations](#) and [guidance](#) implementing the [Fair Pay and Safe Workplaces Executive Order](#) (EO). This rule requires contractors seeking federal contracts to disclose if they had any federal or state labor or safety violations over the past three years.

Although NECA still has serious concerns about the overall intent of the EO, the final rule accepted a [suggestion by NECA](#) to allow subcontractors to report any qualifying labor law violations to the Department of Labor directly,

instead of reporting to prime contractors, as proposed initially.

Fair Pay and Paid Sick Leave Workshop Offered at NECA 2016 Boston

In addition to the new "Fair Pay" rules, there is a pending rule requiring Federal contractors provide [Paid Sick Leave](#) to their employees, even if they are covered by a collective bargaining agreement.

The [Federal Rules: Paid Sick Leave and Fair Pay and Safe Workplaces](#) pre-convention workshop session at [NECA 2016 Boston](#) is a great opportunity to learn everything you need to know to navigate these new rules.



To Benefit... Participate!



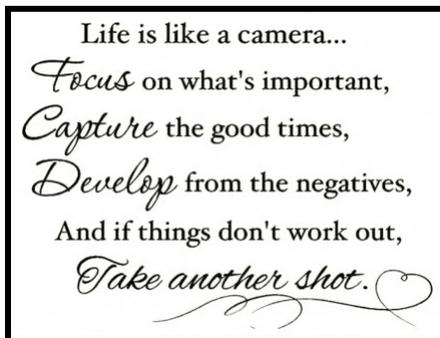
NFPA 70E PERSONAL PROTECTIVE EQUIPMENT (PPE) SELECTOR GUIDE

The NFPA 70E Personal Protective Equipment (PPE) Selector Guide, (5024-15), was developed to assist the industry in understanding and applying the provisions found in “NFPA 70E, The Standard for Electrical Safety in the Workplace”. It has been revised to the current 2015 edition of this NFPA standard and provides a simplified approach and understanding to the Personal Protective Equipment requirements to help in keeping workers safe. Maintenance Related Safety Requirements are now included in the standard and is a basis for applying the provisions found in the Table Method for implementing Personal Protective Equipment and Arc Flash Protection. Item No. 5024-15 at the NECA Store. Member Price: \$25

COUNTDOWN TO NECA CONVENTION

It’s not too late to attend the NECA Convention in Boston! The schedule for this year’s [NECA Convention and Tradeshow](#) has changed to a Friday to Monday schedule with the Board of Governor’s Meeting on Friday, October 7th. Our chapter has been assigned housing at the Boston Intercontinental this year and rooms are at a premium. Please book now if you are interested in attending!!

Educations opportunities are just another reason to plan to attend this event. The [full schedule](#) of classes being offered is available online. Classes vary from business, marketing, code and industry innovation. Take advantage of these classes and sign up today for the 2016 NECA Convention!



POLITICO LAUNCHES NEW WEBSITE

Politico Group and the Electrical Contractors of California Trust have re-launched the www.PoliticoOnline.com website for use by California NECA contractors.

The revamped website provides useful “quick links” on the home page, downloads to the [Politico Alerts](#) in the “Resources” section and access to all state websites on the “Links” page.

The “Contact Us” page is a simple way to get answers to your questions, request forms or applications, and to let us know what you think about issues in California.

www.PoliticoOnline.com is provided to California NECA contractors through the Electrical Contractors of California Trust and is designed to connect you to California.





IS IT DONE YET?

When Can You File Your Mechanics Lien

John McGill

Sometimes the help we get causes more problems than it solves. Doctors have the right idea; they have the directive to “do no harm”. Not so much in the law though. In the legal system the effort is to reach the correct decision within the constraints of what the statutes provide. For the most part it works, but sometimes it works a little too well- and then we have problems.

For this article, the issue is when can the contractor file a Mechanics Lien? The Mechanics Lien statutes say that the Lien can be recorded at completion. If owner files a notice of completion, then the General has 60 days to record a Lien and a subcontractor has 30 days to record. If the Owner does not file the Notice of Completion, or a Notice of Cessation, then the General and the subcontractor have 90 days to record, and that 90 days follows *after* there is

a cessation of work for 60 days. After the 60 day period, the project is deemed complete and that triggers the Lien recording period, and everybody has 90 days. If you don't record in that time, you lose the right to a Mechanics Lien.

Some other Mechanics Lien basics here: in order to have the right to record a Lien you must have “contributed to the work of improvement”; ie- you are general, a sub, or a supplier. You must also have sent a Preliminary Lien Notice to the Owner, the General, and any lender if you are a subcontractor. Generals don't have to send notice to the Owner but they do need to send to any lender, not so much for the Mechanics Lien but if they want to assert a Stop Notice. If the subcontractor does not send the Preliminary Notice or if it comes in too late to protect the work performed- all work performed 20 days prior to the Notice and all work thereafter- then there is no right to a Mechanics Lien.

The more interesting issue though is when is the project completed if the Owner does not file a Notice of Completion or Cessation? In the case of *Picerne Const. Corp. v Castellino Villas* the court went out of its way to save Picerne from having a late and therefore void Mechanics Lien. In doing that however, the court may

have introduced some Owner defenses; ie- that a Lien might be determined to be invalid because it is recorded too early. The best laid plans....!

In *Picerne*, the issues were very complicated but to summarize, the project involved 11 apartment buildings, all of which were part of the same project. Picerne and Castellano got into a dispute over payment and release of retention. Each building received a Certificate of Occupancy from the building department but there was still work to be done under the contract; for example- safety tape on stairs, certain roof and gutter work, other relatively minor but still base contract work.

Picerne waited to file its Lien until all of the base scope was done. Castellano argued that they waited too long and that the remaining work was inconsequential and minor so that the Lien was recorded late. Both the trial court and the appellate court disagreed and found that the Lien was properly and timely filed and could be foreclosed on so that Picerne could be paid.



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According to the court, “interpreting completion as actual completion gives lien claimants the maximum time to assert their rights before such rights are cut off, whereas interpreting completion as substantial completion could cutoff mechanics liens rights much earlier.” True enough, but a premature Lien is not valid either and so depending on what “actual completion” means, a Lien can be void or valid depending on what needs to be done on the project, if anything.

Under *Picerne*, a Lien claimant can record the lien after the work is completely done, which apparently means all punchlist and any other contract work. Installing a door knob won't be enough, but the installation of warning tape on stairs is enough to keep the Lien period open. Under *Picerne*, substantial completion is not enough; now it is actual completion of the contract work that triggers the Lien recording period.

The problem will be knowing when that actually happens. If *Picerne* becomes the standard, then Owners may not be quick to file Notices of Completion or Cessation. Contractors will need to monitor the project very closely so they know when all of the work is complete

and then wait 60 days to record the Lien. This is not going to be easy or practical, especially when tape on a step is enough to keep the project from being actually complete.

The *Picerne* court did a good thing for the contractors on this project insofar as the decision allowed those contractors to pursue their rights and get paid. The decision creates a lot of uncertainty however because the actual completion of a project is sometimes a best guess, if that. It may be that *Picerne* is an outlier and won't be followed, but you can bet that Owner's and contractor's attorneys will be citing it and using the actual completion language to whatever advantage they can. A Mechanics Lien is only valid when it is timely and that means not too early and not too late.

Bio: John P. McGill is an attorney and represents contractors and suppliers throughout the Bay Area and Northern California in both private and public work disputes as well as in employment, transactional, and administrative matters. He received his JD with distinction from the University of the Pacific, McGeorge School of Law, and is a member of the school's Traynor Honor Society. He is the author of California Contractor's DESKTOP GENERAL COUNSEL What You Need To Know About

California Construction Law (www.M3-Publisher.com) and writes on construction issues at California Construction Law Toolbox www.californiaconstructionlaw.wordpress.com. Direct office - 925-952 5403 & cell- 707 337 1932.



NECA EDUCATION OPPORTUNITIES

Cracking the 'WIP' - Driving Predictable Cost Projections

Many contractors struggle with how to build a robust cost projection process that provides for consistency and predictability; banks and bonding companies are demanding contractors develop and implement robust cost controls. Learn how to identify the key indicators that monitor project performance and allow you to drive responsibility to the project level, affecting the greatest positive change.

- Identify how to manage work-in-process for better profitability;
- Explain the relationship between project profitability and processes;
- Describe how to apply earned value

- reporting to projects;
- Describe key performance metrics that create actionable information;
- Discuss data collection and metric automation methods;
- Explain deployment options.

Senior executives, financial managers and project managers will benefit from this full-day course.

Date: Thursday, September 22, 2016

Time: 8:30 AM - 4:30 PM

Location: Napa Training Center (720-A Technology Way, Napa, CA)

Cost: Free to contractors working in Local 180's jurisdiction

All others: \$500 per person

Interested in registering?

Contact Juanita Mitchell at the Northern CA Chapter for more details!



UPCOMING CLASSES OFFERED THROUGH THE JATC

CALCTP

California Advanced Lighting Controls Training Program (CALCTP) with Instructor Stephen Slovacek is looking for participants. This class is a total of 50 hours: 10 hours of lecture and 40 hours of lab. The class schedule will

be coordinated with those in attendance. **YOU MUST BRING PROOF OF COMPLETING THE ONLINE COURSE TO THE FIRST CLASS OR EMAIL TO stacy@tricityjatic.org.**

Students will not be allowed to attend the class if they have not completed the online coursework. Go to bit.ly/IBEW234CALCTP to get started today. There is a \$125 stipend available upon successful completion provided by the Monterey Bay LMCC.



CALCTP-AT

The JATC is also taking sign-ups for the California Advanced Lighting Controls Training Program - Acceptance Testing (CALCTP-AT) with Instructor Stephen Slovacek. This class is a total of 24 hours. The class schedule will be coordinated with those in attendance. The prerequisite for this class is completion of the 50 hour CALCTP. An application form must be completed prior to starting class. To register for this class there is a \$225 application/record maintenance fee. Go online to goo.gl/qkW7AI to complete an application and

pay the application/record maintenance fee. There is a \$125 stipend available upon successful completion provided by the Monterey Bay LMCC.

CPR/FIRST AID CLASS

Since First Aid/CPR language has been added to the Inside Agreement and will now be a requirement, the JATC has decided to offer it more regularly. The next class is scheduled for Saturday, September 10th from 8 am to 1 pm. Roni Jane Sudyka will be the trainer and the class is always well received. Blood borne pathogens will also be covered. Please call Stacy to sign up and to inquire about the additionally scheduled dates.

MOTORS CLASS

A motor class, with instructor David Martinez is scheduled for the third Tuesday of each month. The next class is September 20th from 5:30 to 8:30 pm, Drop on in for this series! This is a (3) hour class

EVITP - CONDENSED

EVITP 3.0 Class Electric Vehicle Infrastructure Training Program (EVITP) 3.0 with Instructor Stephen Slovacek. This class is a condensed version of the 35 hour course. It is a prerequisite for EVITP that you are a California Certified General Electrician. As a bonus, there is a \$125

stipend available upon successful completion provided by the Monterey Bay LMCC. Call Stacy for more information.

CONGRATULATIONS TO THOSE WHO HAVE COMPLETED UPGRADE CLASSES

Congratulations to the following individuals who have recently completed classes offered through the apprenticeship program! We appreciate your commitment to the industry!

NFPA 70-E

- John Barber
- Peggy Evans

- Jeffrey Fichter
- Jaime Hernandez
- Max Schnittger

CODEOLOGY

- Jorge Germany
- Hector Medina
- Ritchie Magallan
- Chris Padilla
- Israel Andrade

MOTORS

- Richie Magallan
- Chris Padilla

JATC APPLICANT TEST SCHEDULED

The Tri-County Electrical JATC accepts applications on a year round basis. The

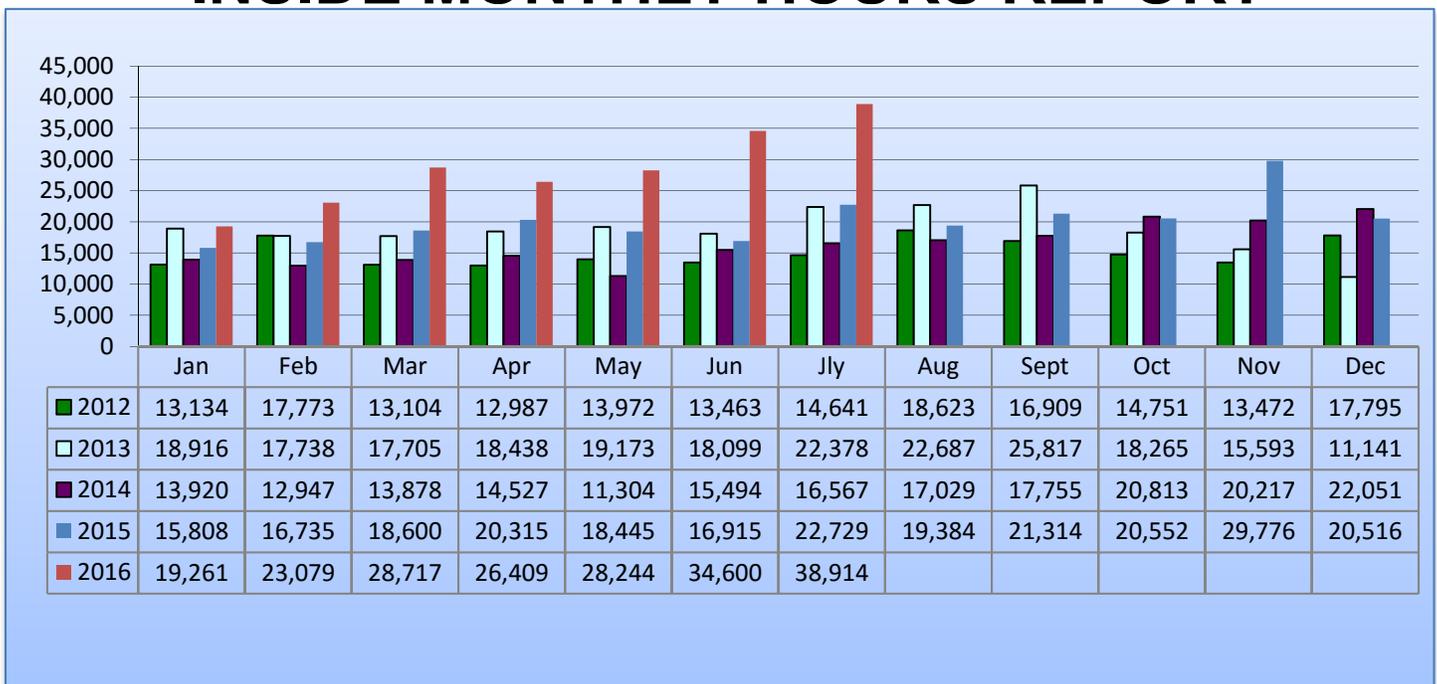
next aptitude test has been scheduled for August 6, 2016. For more information regarding the process, please click in the following link:

[JATC INFORMATION](#)

AVAILABILITY LIST UPDATE

On the Inside Out-of-Work List, there are 2 on Book 1, 63 on Book 2, and 9 on Book 3. For Sound & Comm, there is 1 on Book 2. There is 1 CE on Book 2 and there are 25 CW's on Book 1 and 215 on Book 2. There are no Inside apprentices available for work at this time.

INSIDE MONTHLY HOURS REPORT



UPCOMING EVENTS CALENDAR



September 2nd and September 5th, 2016

Labor Day Holidays
Inside and S&C Agreements

September 17-23, 2016

IBEW Convention
St. Louis, MO

October 7-10, 2016

NECA Convention
Boston, MA

October 8, 2016

IBEW 234 Family BBQ
Toro Park – Buckeye Area
Salinas, CA

November 2-6, 2016

Executive Management Institute
Chicago, IL

December 2, 2016

Chapter Christmas Party