

URCA Viewpoint

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NEWS AND VIEWS FOR THE UNION ROOFER

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Insuring Construction Projects Through OCIP's and CCIP's

The traditional manner to insure construction projects is to have the construction participants provide their own insurance to protect against construction project risks. Typically, each participant would include the cost of its insurance, plus a mark-up in its bid.

In the last several years, large construction projects, typically in excess of \$100 million, are more frequently insured under a Controlled Insurance Program (CIP) or "wrap up" program. Under a CIP, one of the participants in the project controls the procurement of insurance for all or the majority of the "enrolled" construction participants. If the controlling entity is the project owner, the coverage is referred to as an owner-controlled insurance program or "OCIP." If the controlling entity is the general contractor, the coverage is referred to as a contractor-controlled insurance program or "CCIP."

Regardless of whether the wrap up

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SCAQMD Proposed Rule Making -Single Ply Roof Systems

The South Coast Air Quality Management District (SCAQMD) has implemented a rule making process to amend Rule 1168 (Roofing Adhesives and Sealants). URCA and the Roofing Contractors Association of California (RCAC) are united in their opposition to the proposed amendments.

In early April, URCA Executive Director, Ron Johnston, contacted the SCAQMD's Rule 1168 staff director, Mike Morris requesting that a meeting be scheduled with his staff in order for URCA and RCAC representatives to express their reservations regarding the District's intent of significantly modifying the rule. On April 30th the meeting was held at the District's headquarters.

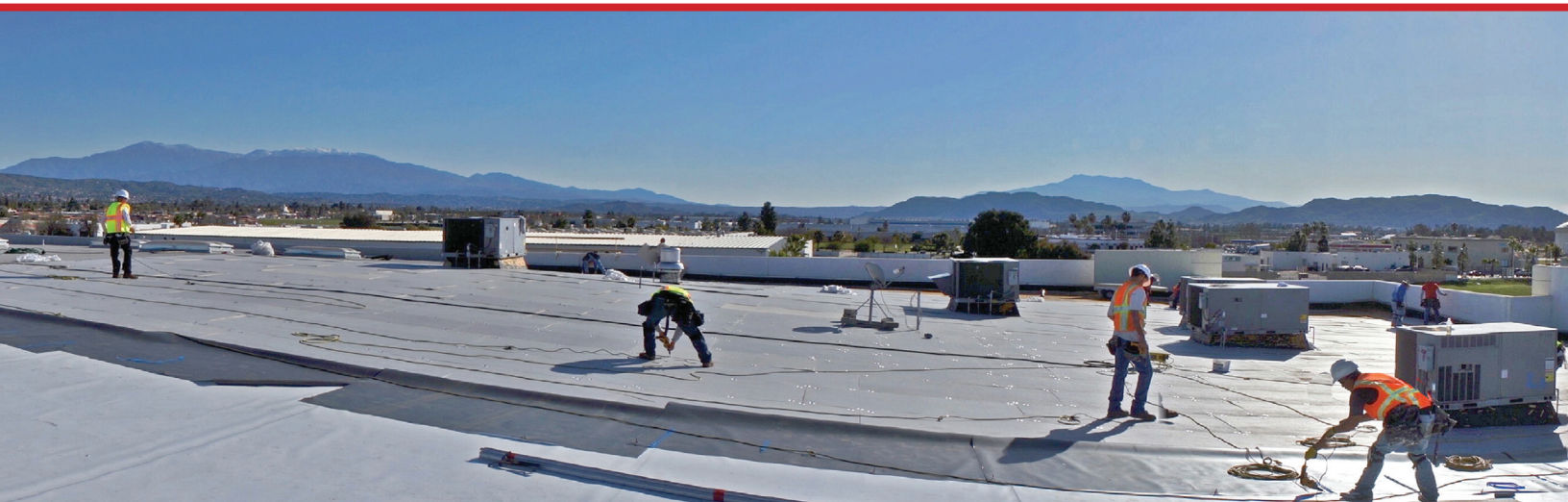
Johnston opened the meeting

with an introductory statement, which supported written comments earlier submitted by the Single Ply Roofing Industry Association (SPRI) and the EPDM Association. In essence, both organizations



opposed the proposed District amendments, which would lower the volatile organic compounds (VOC) emissions threshold for roofing adhesives from 250 grams/liter

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Ronald D. Johnston, Ph.D.
Executive Director



Ron Johnston addressing the 2014 California Legislative Conference panel.

Not surprisingly, the last year of the current 2013-2014 State Legislative Session has been relatively slow in terms of bills introduced for review and consideration. This is an election year coupled with significant emphasis on the Legislature and Governor to work together in developing a State Budget. Many of the bills introduced this session address the growing “drought crisis,” immigration reform and compliance legislation with AB 32, a bill chaptered into law in 2006 to address alleviation of “global warming.” That being said, there have been bills introduced that would have an impact on the construction industry as a whole and the subcontractor community specifically.

URCA has targeted two bills for monitoring and lobbying that would have a positive impact on subcontractors. AB 1705 (Williams)- SUPPORT. This is a cleanup bill sponsored by ASAC to address certain language modifications to SB 293, a bill passed during the last Legislative Session (2011-2012) and chaptered into law by the Governor on October 9, 2011. A provision within SB 293 stated that a public entity could not require a retention payment of more than 5% for a construction project, unless said project was deemed “substantially complex” by the awarding agency. In effect, the aforementioned verbiage provided public entities with a pathway to escape the 5% maximum. AB 1705 clearly defines what is NOT a “substantially complex” project. The bill passed out of the Assembly Floor on May 5th by a vote of 74-0 and was ordered to the Senate. As of this writ-

ing, the bill has been referred to the Senate Government Organization Committee.

AB 2471 (Frazier)- SUPPORT. This bill, which has been amended four times, would require a public entity, when authorized to order changes or additions to the work in a public works contract, issue a change order promptly and no later than 60 days after the extra work is complete and specified agreement has been reached. If the requirement is not met, the public entity would be liable to the contractor for the completed extra work in accordance with any provisions for change order work that may be contained in the contract. Furthermore, the bill would require prejudgment interest to accrue on any amount for which the public entity fails to issue a change order promptly or make payment due pursuant to this bill. This bill passed out of the Assembly Floor on May 29th by a vote of 63-11. As of this writing the bill has been referred to the Senate Appropriations Committee.

URCA is cautiously optimistic that both bills will go the Governor for his signature.



CSLB Proposed C-22 License

The California State License Board (CSLB) has proposed to create a new stand-alone C-22 Asbestos Abatement Contractor license classification, which URCA, along with other roofing associations oppose for the following reasons: Safely removing an asbestos-containing roof requires distinct knowledge and skill sets: asbestos abatement and roofing operations. Secondly,

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AQMD Continued

(g/L) to 100 g/L and sealants from 450 g/L to 100 g/L.

Johnston emphasized that single ply applications comprise 50 percent or more of commercial roofing projects for both reroofing and new construction, owing in large measure to the Building Energy Efficiency Standards (Title 24, Section 6), which mandate



“cool roofing” over air conditioned spaces, and further observed that such dramatic reductions in the VOC thresholds for adhesives and sealants would shorten the life expectancy of many roofs, and most likely would significantly increase roofing costs, since only about 20 percent of the current products used in single ply applications meet the proposed threshold.

Additionally, Johnston applauded the District’s decision to postpone implementation of the proposed amendments to January 1, 2018, as well as the agreement to

review the technological progress of manufacturers in meeting the new threshold limits one year in advance of the implementation date.

Nevertheless, Johnston asserted that the January 1, 2018 deadline should not be “etched in stone.” Research and development of new products would require a significant undertaking by the manufacturing community and meeting the aforementioned deadline might not be feasible. The District should be willing to extend the time frame and there is historical precedent for doing so.

As a result of information and data presented to the District by a united manufacturing and contractor coalition, the SQAQMD has decided to forgo any further action until a “Symposium” is held in late September. The coalition has made a significant inroad in the rule making process and, hopefully, the current I168 Rule, which was implemented in 2005, will remain intact, or, at the very least, the Coalition and the District can reach a consensus on an amended VOC threshold reduction to the Rule.



CSLB Continued

roofing operations create an inherently hazardous work environment; accidents are common and tend to be severe. Thus, workers’ compensation insurance for roofing is very high and, consequently, a powerful incentive for fraud. Creating a separate C-22 license

would be an open door to prevailing wage and workers’ compensation fraud. Nevertheless, it appears that our concerns have fallen on “deaf ears” and the CSLB is moving forward toward implementing the new stand-alone classification.



Construction Insurance Continued

program is implemented through an OCIP or a CCIP, a unified insurance program is wrapped around the entire project, protecting, as insureds, the project owner, the general contractor and subcontractors. In most cases, the program usually includes commercial liability, and business auto liability, as well as workers compensation coverage.

There is no “generic” or “boiler plate” policy that can be utilized for every project. The coverage terms and conditions can be varied based on the requirements of the project and its enrolled participants.

In theory, the wrap up sponsor will procure the best coverage that is financially feasible for the project and its participants. In reality, participants frequently review the wrap up policy language or binder to ensure that it affords sufficient protection for their particular needs, since different participants may face different risks based on their respective roles on the project.

A participant who is concerned about “gaps” between its individual risk profile on the project and the wrap up coverage would include certain insurance requirements during the contracting phase. Thus, a concerned participant would purchase his or her own corporate or individual insurance policy endorsement to provide excess and “difference-in-conditions” (DIC) coverage for the wrapped project. The DIC coverage would effectively add policy limits of the participant’s individual policy on top of the wrap up policy’s limits and provide what is commonly referred to as primary “gap filler” coverage for risks covered by the individual policy but not covered

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Construction Insurance Continued

by the wrap up policy.

Herein are the problems with wrap programs. (1.) On many projects, an enrolled participant must purchase DIC coverage to cover potential risks not covered by the wrap policy, which is an addi-

Herein are the problems with wrap programs.

tional cost to the participant; (2.) Perhaps more importantly, wrap programs allow the sponsor to utilize what is known as a “blended payroll rate,” which can result in excess premiums being paid into the wrap policy and does not reflect the true value of the premium owed to the wrap program. Consequently, this provides the

sponsor with a “profit center” of premium that exceeds what is truly needed to provide the necessary coverage required to protect the insurance risks of the participants.

In order to cure the aforementioned, the URCA and the American Subcontractors Association of California are collaborating on a bill, which would be introduced during the 2015-2016 legislative session.



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The mission of the Union Roofing Contractors Association is to promote quality construction utilizing highly trained and skilled employees. The URCA is dedicated to the highest standards of professional integrity.

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