

**NYSIF**<sup>®</sup>

**MORE ON TUNING OUT NOISE**

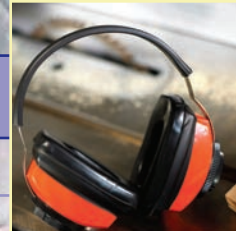
NEW YORK STATE INSURANCE FUND

*Workers' Comp.*

# ADVISOR

[nysif.com](http://nysif.com)

July, August, September 2008



## People Before Pipe

**A Vestal, NY, Manufacturer Practices  
a Company Culture That Places  
Safety Ahead of Production**

From left: NYSIF Binghamton Field Services Rep. Mark Gallo with National Pipe & Plastics' CEO David Culbertson, Everett Baldwin, shift supervisor Bruce Freeman, Human Resources Manager Mary Tingley, Production Manager Chad Culbertson, Plant Manager Fred Swingle and Chris Darling



## In This Issue

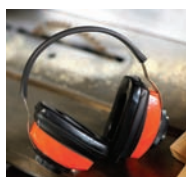


### People Before Pipe

National Pipe & Plastics, Inc., lives and works by a simple motto, putting people ahead of production. With that kind of mantra,

you know it's a company that takes safety seriously, and welcomes NYSIF's help.

**Pages 4-5**



### Hear No Evil/Pt. 2

Employers must protect workers exposed to noise levels at or above 85 decibels in an eight

hour day. How loud is that? You'd be surprised. *Safety Cop* outlines how to protect workers' ears in part two of our review on the silent occupational disease. **Page 6**

## Tragedies Spell Change, Fines

Local and federal officials reacted to recent accidents that resulted in fatalities and serious injuries at job sites in New York City this past spring and last fall.

In the wake of crane collapses in March and May that killed nine people, the New York City Buildings Department said it would hire 20 "highly specialized engineers" with the authority to monitor and change practices on high risk construction jobs involving cranes, concrete pouring and excavation, Bloomberg.com reported.

The engineers are among 63 new inspectors being hired by the department, bringing the total number to 461, the news site said.

The U.S. Department of Labor reportedly is expected to recommend mandating certification of crane operators as part of a nationwide set of safety standards anticipated this year. The Occupational Safety and Health Administration (OSHA) last updated crane operator rules in 1971.

OSHA, meanwhile, cited two New York City employers for alleged violations of federal safety standards in a scaffold accident that killed one worker and

seriously injured another last December.

The two workers, window washers, fell 47 stories. They were not wearing safety harnesses tied to independent anchorage points and received no training in fall protection, scaffold operation, work hazards or emergency procedures. OSHA inspectors found improperly installed crimps, used to secure the platform's hoist rope, could not support the scaffold's load.

OSHA Manhattan Director Richard Mendelson said use of fall protection would have stopped any fall, and proper maintenance, inspection and employee training could have prevented the accident.

## Dry Cleaning Guide in Korean



Now available in Korean for employers and employees in the dry cleaning industry

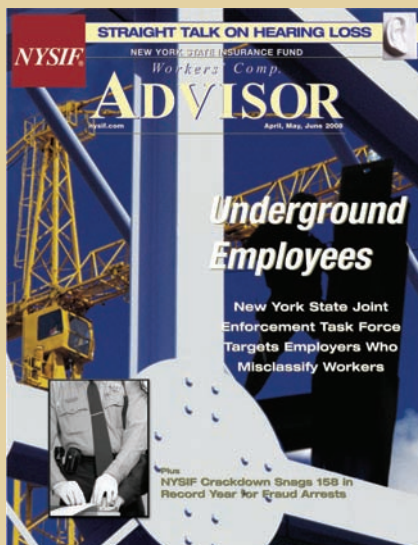
is the OSHA document, *Reducing Worker Exposure to Perchloroethylene (PERC) in Dry Cleaning*. Available electronically from OSHA's Publications page, the document covers health hazards, current regulations, training, personal protective equipment, and other methods of reducing worker exposures.

## Labor Investigators Out to Stop Cheating Employers

**IN APRIL**, investigators from the New York State Labor Department and the Workers' Compensation Board shut down a noted Bronx bakery for alleged abuses of workers. The raid on the bakery followed complaints by former employees of below minimum wage pay and unpaid wages.

It also followed a report by the New York State Joint Enforcement Task Force on Worker Misclassification about illegal employment practices by employers who fail to provide pay, workers' compensation coverage, unemployment insurance and other benefits for workers (*WCA Apr/May/June '08*).

The WCB served a stop-work order on the bakery for not providing employees with workers' comp. insurance, which Labor investigators said had not been in place since December 31, 2006. State investigators said the bakery allegedly violated other labor laws and



cheated workers out of \$140,000 in unpaid wages.

"The Labor Department will enforce every labor law and pursue every employer who cheats their workers out

of their hard earned pay," State Labor Commissioner M. Patricia Smith said. "We want to send a message to all workers that the Labor Department will stand with you against these kids of abuses and we will also protect you against retaliation by your employer."

### At least one employer's on board:

*WCA* received this comment from an employer who wished to remain anonymous in response to the *Apr/May/June '08* cover story (c.) on worker misclassification: "Just read the most recent Advisor. About time everybody got together to fight fraud in construction trades and others. We know [in] construction specifically it is rampant. As a legit business we cannot compete with those who work the system. It's tough enough out there in a good year, but with the economy as it is...go get 'em."

## Youth Job Safety

Now that summer's here, more teens are joining the workforce. Governor David A. Paterson signed a resolution proclaiming June "Teen Worker Safety Month." The New York State Young Worker Safety and Health

Project is raising awareness among teens, parents, employers and educators about protecting young workers against injuries on the job.

Participants include the NY Committee for Occupational Safety and Health (NYCOSH), the state departments of Labor, Health, and Education, Workers' Comp. Board and U.S. Department of Labor.



NYSIF wants to keep young workers safe on the job. CEO David Wehner reminded employers of state law on teens in the workplace (*WCA Apr/May/June 08*). NYSIF's [bsafe@work](mailto:bsafe@work) bookmarks (above) inform teens of their rights on the job and what questions to ask about job safety. Print the bookmarks at [nysif.com](http://nysif.com) > About NYSIF > Online Publications.

## Skin Cancer Screening

With summer sun beating down on outdoor workers, here's a report that might cause certain employers to consider skin protection for their employees.

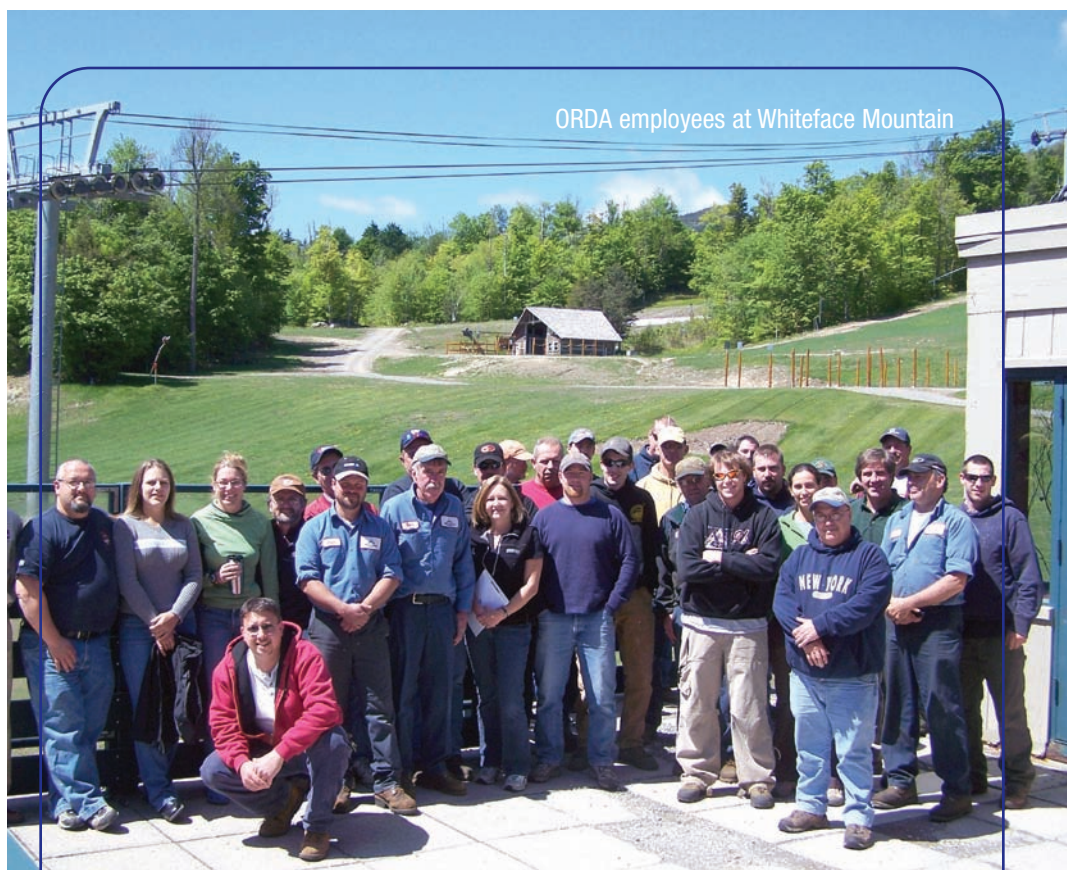
Ironically, workers who probably need it the most are least likely to receive skin cancer screening, according to a study cited by the *Journal of American Academy of Dermatology*.

Of 38,124 workers in the study, only 15% said they had undergone screening. Among workers in occupations at increased risk for exposure to ultraviolet light that number dropped for farm operators and managers (10%), construction and mining trades (8%), farm workers/agricultural workers (7%), and forestry and fishing occupations (3%).

Socioeconomic factors were significant predictors of having had a skin exam. Some industries improved over the course of the study conducted in 2000 and again in 2005: Forestry and fishing workers reported a skin exam increase from 4.2% to 13.6%; construction workers stayed essentially the same.



Construction workers:  
no go on skin screening



ORDA employees at Whiteface Mountain

## Preserving the View at Whiteface

You might say the bonus that comes with working for the New York State Olympic Regional Development Authority (ORDA) at Whiteface Mountain in the beautiful Adirondacks is the view.

Eyesight, then, was a fitting choice to include in a discussion of Personal Protective Equipment (PPE) during safety training recently conducted by NYSIF Field Services Representative Augusto Bortoloni for workers at the Whiteface facility. Mr. Bortoloni emphasized that wearing proper eye protection would result in a 90% reduction in on-the-job eye injuries.

"I asked, if I gave them six numbers and told them that these six numbers would win the lottery 90% of the time, would they play these numbers?" Mr. Bortoloni related. "Of course, the answer was, 'Yes!'"

Homerun.

"So then I asked why wouldn't you use your eye protection if doing so would prevent an eye injury 90% of the time?" Mr. Bortoloni said. "What is more precious than your eye sight? They got the point."

The training, conducted with the help of Whiteface Mountain's Charles Terry, also covered right-to-know/hazcom, bloodborne pathogens, lockout/tagout, employee accident reporting, back safety, slips/trips/falls, ladder safety, workplace violence, sun exposure, and ATV/snowmobile policies.

Created to manage the facilities used during the 1980 Olympic Winter Games at Lake Placid, ORDA operates the Whiteface and Gore Mountain ski areas, the Olympic Sports Complex at Mt. Van Hoevenberg, and the Olympic ice and jumping complexes. ORDA hosts international and national competitions, and runs the Olympic venues for summer, fall and winter recreational seasons.

Mr. Bortoloni encouraged workers to remember that the first "P" in PPE stands for "Personal," and reminded them that they should look upon safety and wearing PPE as very personal. "They are the ones who can be hurt and have their lives impacted from an injury," he said. "I stressed quality of life, and discussed how their life could change from just one injury."

And perhaps forever alter that beautiful view.





**NATIONAL PIPE & PLASTICS, INC.**

# **PEOPLE FIRST, PIPE SECOND**

With a company motto like “People Before Pipe” you know that National Pipe & Plastics, Inc., takes the issue of workplace safety very seriously.

## *A Simple Motto and Strong Commitment to Keeping Workers Safe in Vestal, NY*

**N**ational Pipe and Plastics, Inc., has been producing polyvinyl chloride (PVC) pipe for residential, agricultural, commercial, municipal and export markets. The company produces about 250 million pounds of PVC pipes per year in their two plants; one in Greensboro, NC and the other in Vestal, NY.

Although many duties are automated in the plastic pipe manufacturing industry, there are still safety hazards workers are exposed to. Some of those risks include fork lift operations, manual lifting and moving of materials, hearing exposure, falling pieces of pipe, and exposure to blades.

Five years ago National Pipe & Plastics CEO Dave Culbertson concluded that he needed to create a safer environment for employees in his New York plant.

“We made sure they all knew that management, from myself down, wanted to do whatever it took to make a safer plant, so we created a motto that we wanted to put people ahead of pipe, or people ahead of production,” Mr. Culbertson said.

The first thing he decided to do was have monthly meetings with employees, the vice president of manufacturing, and all of the supervisors. Management commitment from the top down is a basic tenet of implementing a successful safety program, or transforming a company’s safety culture. Mr. Culbertson made his workers know he was serious about that commitment and the results began to follow.

“We talked to all the employees about what they thought we needed to do differently to create a safer plant,” he said. “People began to realize that we really wanted to do something for their benefit.

“We also told employees that anytime they had anything that they

thought needed to be corrected or adjusted to make it safer, we would have the correction done within 30 days or prior to the next meeting, and I made it very clear to our managers that they would make that happen in front of the employees. The employees appreciated

that. After a year of doing that we had almost no accidents, we had zero lost time accidents and some of the benefits we had were more production, less scrap and a cleaner plant.”

Fortunately, NP&P was up to speed when it came to fundamentals such as machine guarding and personnel protective equipment, areas in which others within the industry might experience their greatest amount of injuries.

“In our industry the most unsafe item in a factory of this nature is a saw,” Mr. Culbertson said. “Industry wide, that’s where many accidents happen. We have not had any accidents with regard to that because we made sure everything is guarded. We did not have to make any basic changes to machinery and protective gear. Our policies in those areas have always been in accordance with OSHA standards. Our machinery has included guards since 1970.”

**NP&P initiated daily inspections, making sure wires, water, oil and other things were clear from the floor.**





NP&P made sure employees knew management wanted to do whatever it took to make a safer plant.

As for PPE, if employees are handling pipe they have to wear protective gloves, and if they're in manufacturing areas they're required to wear safety glasses and safety shoes.

The major differences implemented by NP&P five years ago, Mr. Culbertson explained, involved a greater sensitivity to safety issues, a greater awareness on the part of all employees to unsafe conditions and actions, and greater diligence in enforcement.

"We initiated daily safety inspections," he said. "These included making sure that all guards were in place, electrical panels were closed, wires were off the floor, removable extension cords were replaced with hard wiring, and water and oil were cleared from the floor among other things.

"In places where fixed guards could not be installed, we added plastic strips wherever someone might put their hands in the way of moving parts as barriers to remind people of harm's way. We insisted on a clean plant free of any debris on the floor. We required strict enforcement of lockout/tagout procedures. We instructed every employee to shut down any machine any time in the event of a default that would cause a safety breach."

By going back to safety basics—good housekeeping, routine inspections and follow-up, eliminating unsafe acts—NP&P became the model of a safety conscious workplace built upon management commitment and employee buy-in.

"We even invited OSHA to come to both plants and do an inspection, and then we made whatever corrections they asked for," Mr. Culbertson said. OSHA had only a few minor recommendations for the improved New York plant.

"One was a change in electrical code regarding the way wires were to be joined," Mr. Culbertson said. "We had used the plastic twist caps, and the change required a new combination in certain applications. The other recommendations were similar in that they enlightened us to things we didn't know, rather than to correct us in areas we had overlooked."

On the other hand, the employee-management safety meetings proved fertile ground for suggesting needed equipment adjustments, but more so for changing everyone's sensibilities and approach toward plant safety, and for making the difference in the plant's safety performance.

"While we did make a great number of fixes to equipment as recommendations arose in our monthly meetings, the real significant change in our program was in management and employee attitude resulting in a change in behavior," Mr. Culbertson said. "This turnaround in the human element that caused everyone to work together and watch out for one another is what provided the improvement in our safety record."



Mark Gallo has been the field services rep. for NP&P since it came onboard with NYSIF in 2004. In one of his first meetings with Mr. Culbertson, the two agreed that they didn't want his workers to become complacent when it came to safety. Mr. Gallo visits NP&P several times a year. In May, he presented a training seminar for NP&P's 174 employees, "Raising Safety Awareness at National Pipe & Plastics," that focused on making good decisions in and out of the workplace.

"It's a training session that I use when a real accident trend is not present at a policyholder's workplace," Mr. Gallo said. "We discuss the causes of accidents and how most accidents can be avoided simply by using common sense.

"During the presentation, I asked the audience if receiving safety training makes you a safer employee," Mr. Gallo related. "Almost all employees answered 'yes'. I told them that the answer is 'no'. I explained that an employee must properly apply the training they receive and also follow the safety rules they have been taught in order to become a safer employee."

Mr. Gallo's general safety guidelines include:

- Learn and use proper/safe work methods for all tasks
- Wear the right personal protective equipment for the job
- Do not take shortcuts or risks
- Don't rush – Safety before speed
- Obey all rules, regulations, signs, markings and instructions.

"Many accidents occur because an employee took a shortcut or manipulated the safety rules," Mr. Gallo said. "Poor decision making can yield dangerous results when working with machinery. Therefore, employees should be accountable for their actions."

Mr. Culbertson believes it's beneficial for employees to hear someone other than the employer deliver the safety message.

"Mark came in and gave our employees another perspective on what needed to be done," he said. "As an outsider, he's saying basically the same things we are, but he's able to point out what happens in other businesses, other industries, and compare our employees to other employees doing similar functions. He shows them what can happen if they're not safe, and what does happen if they are safe, and that made a big impression on everyone."

Mr. Gallo adds that good results are much easier when serving a safety-minded employer such as NP&P that shares the same safety goals as NYSIF. "Keeping people safe is what we do at NYSIF, and my training appeared to work well in supporting their strong belief in the safety of their people."

'On the job safety begins here': Culbertson (r.) and NP&P changed everyone's approach toward safety.



# OSHA's Hearing Conservation Amendment

Gary Dombroff, WCP/CSC

**Safety Cop**



[Part one of this article looked at occupational noise-induced hearing loss (*WCA Apr/May/June '08*). Part two outlines OSHA's Hearing Conservation Amendment for General Industry, 29 CFR 1910.95.]

**E**mployers must protect workers exposed to noise levels at or above an average of 85 decibels for an eight-hour workday. This is a Time Weighted Average (TWA) of 85 dB, or "dBA" since it is measured on a noise meter's "A"-scale. Eighty-five dBA is called an "action level."

How loud is 85 decibels? If you have to raise your voice or shout to be heard, or your workers complain about ringing in the ears, or have impaired hearing (temporary or permanent) after working in a noisy area, you need to address noise in your workplace.

At a minimum, employers with this noise level must implement an effective hearing conservation program (HCP) consisting of five parts: monitoring, audiometric testing, hearing protection, training and record keeping. The first step is surveying to determine which workers may be exposed to noise at or above the 85 dBA action level.



## THE WORKSITE SURVEY

OSHA requires employers to monitor *all* employees whose noise exposure is equivalent to or greater than an 85 dBA. "Walk-around" surveys consisting of sound level meter measurements and estimates of exposure duration are sufficient to determine if additional monitoring and a more complete evaluation are necessary.

To determine accurately who is exposed, the measurement must include all noise – continuous, intermittent and impulsive – within an 80 dB to 130 dB range. You must measure during a typical work situation, choosing the monitoring method that best suits each individual situation. More details are available in OSHA's booklet "Hearing Conservation" (#3074), and in the OSHA web site Technical Manual pages.



## AUDIOMETRIC TESTING

As part of the HCP, employers must establish and maintain an audiometric testing program for all employees exposed to noise at the eight-hour 85 dBA TWA, or above, and at no cost to employees. Audiometric testing—including baseline audiograms, annual audiograms, training and follow-up procedures—monitors hearing over time. It provides an opportunity to educate employees about their hearing and the need to protect it.

Audiograms must be performed or supervised by a qualified specialist who is certified by the Council for Accreditation in Occupational Hearing Conservation (CAOHC), such as an audiologist, otolaryngologist, or other physician. To make sure the test is an accurate assessment of their hearing, workers must be noise-free for 14 hours prior to getting the baseline test. Annual audiograms compare results to the baseline to check for changes.

The law requires follow-up actions if a worker's annual hearing test shows a decline from the baseline by an average of 10 decibels or more at the test frequencies of 2000, 3000 and 4000 Hertz in either ear (after optional correction for aging). This loss is called a standard threshold shift (STS). OSHA permits a re-test within 30 days of the annual test to confirm an STS, allowing for test variability, background noise in the test environment, a head cold or allergies, and other factors that could affect the outcome of a hearing test. Workers with a STS must be notified of the shift in writing within 21 days.



## HEARING PROTECTORS

OSHA has specific rules governing when employers must *provide* hearing protectors, and when employees must *wear* them.

**EMPLOYERS MUST** provide hearing protectors to all workers exposed to eight-hour TWA noise levels of 85 dB or above so that employees have access to protectors before they experience any hearing loss.

**EMPLOYERS MUST** provide employees with a selection of at least one variety of hearing plug and one variety of hearing muffs. A person trained to fit hearing protectors should help employees decide which size and type protector is most suitable for their working environment.

**EMPLOYERS MUST** show employees how to care for their protectors and supervise them on the job to ensure that they continue to wear them correctly. Attachments and adapters are available for jobs where workers must use other protective devices, such as hard hats, with hearing protection.

The selected protector must fit comfortably and offer sufficient protection to adequately reduce the noise level for each employee's work environment. The simplest and most-often used measure is the protector's listed Noise Reduction Rating (NRR).

**EMPLOYERS MUST** reevaluate the suitability of an employee's hearing protector whenever a change in working conditions may make it inadequate. The protector must reduce employee exposures to at least 90 dB (or to 85 dB when an STS already has occurred in the worker's hearing).



## WORKERS MUST WEAR HEARING PROTECTION:

- ⊙ When exposed to noise over the permissible exposure limit (PEL) of 90 dB over an eight-hour TWA;
- ⊙ If they have incurred standard threshold shifts that demonstrate they are susceptible to noise; and
- ⊙ For any period exceeding six months from the time they are first exposed to eight-hour TWA noise levels of 85 dB or above until they receive their baseline audiograms.



### WHAT TRAINING IS REQUIRED?

At least annually, employees exposed to the action level TWA or above must receive training in the effects of noise; the purpose, advantages and disadvantages of various types of hearing protectors, as well as their selection, fit and care; and the purpose and procedures of audiometric testing. Workers who understand the need to protect their hearing may be more motivated to wear hearing protectors. Document employee attendance.



### NOISE CONTROLS

The Hearing Conservation Amendment requires implementation of feasible engineering and/or administrative controls where exposures exceed 90 dBA TWA. Rotating workers in and out of noisy jobs, limiting the time noisy equipment can run, and other administrative controls can be hard to enforce and document, however. Engineering controls include enclosing machinery, installing acoustic tiles or other sound-absorbing materials, reducing machine vibration and changing work processes.



### RECORDKEEPING

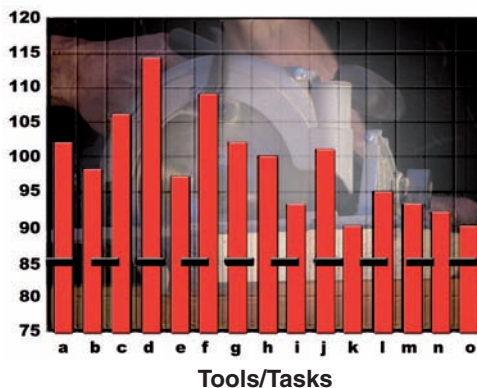
Employers are required to record work-related hearing loss cases on OSHA Form 300, keep noise exposure measurement records for two years and maintain records of audiometric test results for the duration of the affected employee's employment. Audiometric test records must include the date of the last acoustic or exhaustive calibration, measurements of the background sound pressure levels in audiometric test rooms, and the employee's most recent noise exposure measurement.

## MORE RESOURCES

[www.osha.gov/SLTC/noisehearingconservation/index.html](http://www.osha.gov/SLTC/noisehearingconservation/index.html) OSHA safety topic  
[www.osha.gov/dts/osta/otm/noise/index.html](http://www.osha.gov/dts/osta/otm/noise/index.html) OSHA technical manual  
[www.cdc.gov/nceh/hsb/noise/](http://www.cdc.gov/nceh/hsb/noise/) CDC/Nat'l Center for Environmental Health/Noise  
[www.cdc.gov/niosh/topics/noise/workplacesolutions/hearingchecklist.html](http://www.cdc.gov/niosh/topics/noise/workplacesolutions/hearingchecklist.html) Implementation checklist  
[www.cbs.state.or.us/external/osha/pdf/pubs/3349.pdf](http://www.cbs.state.or.us/external/osha/pdf/pubs/3349.pdf) "Quiet!" booklet. *Note:* references Oregon's standards, but an excellent resource.  
[www.hearingconservation.org](http://www.hearingconservation.org) National Hearing Conservation Association

## Implements of Hearing Destruction

Noise level (dBA)



Source:NIOSH

### Key

- a. mitre saw
- b. hand drill
- c. chop saw
- d. hammer drill
- e. metal shear
- f. chain saw
- g. impact wrench
- h. skill saw
- i. belt sander
- j. tile saw
- k. circular sander
- l. router
- m. planer
- n. table saw
- o. mortising

OSHA's Hearing Conservation Amendment contains complex requirements based on specific noise levels. (Construction industry noise exposure is regulated by 29 CFR 1926.52.) Space limitations do not permit a thorough exploration of this topic. Employers with noise exposure should seek a reputable hearing loss consultant and consult the resources listed on this page.

## Food For Thought... If you can hear yourself think!

In their quest to create the "full-energy restaurant," some eateries can register noise exposures louder than most sawmills and still others push the noise meter to a level comparable to that of a jackhammer.

Citing Canada's *Globe and Mail* newspaper, the ergonomics web site [ergoweb.com](http://ergoweb.com) says restaurant noise has been found to surpass the sawmill (97 decibels) and approach the jackhammer (110 dB), especially in places where proprietors deliberately turn up the volume to cater to a younger crowd.

Restaurant din may be in, but it's bad news for restaurant employees and patrons.

The *Globe and Mail* talked to an occupational audiologist with the British Columbia Workers' Compensation Board who said most restaurants have noise levels too high for comfortable conversation, which is 55 to 65 dB. At 70 dB, diners and workers must raise their voices to be heard; at 75 dB ambient noise makes conversation difficult. Workers exposed to noise above 85dB for more than eight hours can suffer permanent hearing damage.

Restaurateurs who ignore hearing health hazards should want to hear this: According to Zagat Survey's 2008 edition of America's Top Restaurants, noise has become the second-most common complaint of restaurant goers.



## Workers' Comp. Advisor

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## Fraud File



### Recent Arrests: Businesses, Corrections' Employees

NYSIF's Division of Confidential Investigations pursued cases that led to five arrests of contractors allegedly attempting to pass fraudulent certificates. They were **Michael McCartney**, of **MJM Contracting**, **Patricio Samaniego**, of **P&S Painting**, **Gary Pastre**, of **Electrical Ventures**, **Mark Ferri**, of **Dana Contracting** and **Kerry Kirk Mohommed**, of **KBF Interior Design** and **K Brothers Flooring**. Mr. McCartney, a repeat certificate offender, Mr. Samaniego and Mr. Pastre, pled guilty.

With an easy-to-use system available to anyone for identifying phony certificates of insurance, homeowners, municipalities and businesses can prevent fraud by using eCERTS® at [nysif.com](http://nysif.com) to instantly validate NYSIF certificates.

In other cases, a Bronx restaurant owner, **Pietro Mellampe**, of **Il Castillo Lido Restaurant**, City Island, and one of his employees, **Ann Marie Defalco**, were arrested for allegedly lying about

not returning to work in separate cases of workers' comp. fraud with an estimated potential savings of \$359,600.

Also, two current and one former NYS Dept. of Corrections employees, **Scott Tadt**, **Jennifer Dubel**

and **Joseph Fiederowicz**, were taken into custody in Buffalo by Attorney General Andrew Cuomo's Office for receiving workers' comp. benefits while allegedly engaged in other employment and lying about it.

*Accusations and indictments are criminal complaints only. Defendants are innocent until proven guilty.*

**'As an agency whose mission includes driving down the cost of workers' comp. in New York, NYSIF's responsibility to the people of New York State is to continue our crackdown on fraud' – CEO David P. Wehner**