

WPC NEWSCAST



A Newsletter of the Wisconsin Precast Concrete Association

10 E Doty St., Suite 523, Madison, WI 53703 · (608) 441-1436

Member Alert!

OSHA Crane Training

Sign Up TODAY—spots filling fast!

Winter 2015

The WPCA will be providing crane operator certification and testing in April in accordance with the new OSHA requirements set to go into effect in November 2017. (OSHA 29 CFR 1926)

If you need training, please consider one of the following training options:

ABC (Articulating Cranes/Knucklebooms)

When: April 8-10

Where: Classroom instruction & written exams held at the Best Western, Portage
Practical exams at the Wieser Concrete plant, Portage.

Cost: \$1,150 per person

NOTE: This class has a maximum of 20 attendees – sign up is first come, first served.

TLL/BTF (Mobile Crane) - NORTH

When: April 13-18

Where: Classroom instruction and written exams held at the Plaza Hotel, Eau Claire
Practical exams at the Huffcutt Concrete plant, Chippewa Falls.

Cost: \$2,000 per person

NOTE: This class has a maximum of 25 attendees – sign up is first come, first served.

TLL/BTF (Mobile Cranes) – SOUTH

When: April 20-25

Where: Classroom instruction & written exams held at the
Holiday Inn Express, Janesville
Practical exams at the Dalmaray Concrete plant, Janesville.

Cost: \$2,000 per person

NOTE: This class has a maximum of 25 attendees – sign up is first come, first served.

PLEASE SIGN UP ONLINE AT www.wiprecast.org.

For more information on whether you need to be certified, please [see next page](#).

Additional certification questions may be directed to Ron Overton who will be providing the training. He may be reached at 866-531-0403 ext. 1 or Ron@overtonsafety.com.

Questions regarding venue or registration may be directed to Katie at the WPCA offices (608) 441-1436 or kboycks@kpasllc.com.

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Who Needs to be Nationally Certified?

Who Needs to be Nationally Certified? (from Ron Overton of Overton Safety)

1. **Articulating Crane Operators:** (cranes over 2000 lb. crane capacity)
 - a. Immediately until November 2017: Only **trained and qualified persons** shall operate the articulating crane, regardless of the use or the load they are handling. Proof of qualification is required.
 - b. by November of 2017: Operators delivering **precast materials** to jobsites must be **nationally certified** by a nationally recognized accredited certification agency (NCCCO). 5 year certification expiration
2. **Mobile Crane Operators:** (cranes over 2000 lb. crane capacity)
 - a. Immediately: Only **trained and qualified persons** shall operate the mobile crane, regardless of the use or the load they are handling. Proof of qualification is required.
 - b. As of November of 2017: All Operators must be **nationally certified** by a nationally recognized accredited certification agency (NCCCO).

To be exempt from the requirement for Crane Operator National Certification:

1. Telescopic or lattice straight boom mobile cranes **are** exempt from National Certification requirements **ONLY IF**.
 - a. Crane must be < 2,000 lbs. gross capacity. OR
 - b. Moving materials from point a to point b **on your own company facility**. Loading and unloading trailers at your own company facility.
2. Telescopic or lattice straight boom mobile cranes **are NOT** exempt from National Certification requirements **IF**.
 - a. Crane is \geq 2,000 lbs. gross capacity. OR
 - b. Being used to perform what would be considered an act of construction.
 - c. Being used on or delivering any materials to construction or building jobsites.
3. Articulating crane operators **are** exempt from National Certification requirements **ONLY IF**:
 - a. Crane must be < 2,000 lbs. gross capacity. OR
 - b. They are delivering burial vaults to graveyards. OR
 - c. They are delivering pre manufactured building supplies like sheetrock, shingles, nails, felt.. (steel or pre-cast components **do not qualify** for the exemption)
 - d. They are using self-closing wall board forks.
 - e. They are setting loads using slings or rigging on the ground in no specific order (forks can go to the rooftop or window)
 - f. They have an OLP system on the crane
4. Articulating crane operators **are NOT** exempt from National Certification requirements **IF**:
 - a. Crane is \geq 2,000 lbs. gross capacity. OR
 - b. They are delivering steel or precast components/materials OR
 - c. They are setting loads using slings or rigging to the rooftop or window OR
 - d. They DO NOT have an OLP system on the crane

Basically:

1. Delivering **precast** components, vaults or items with Articulating Cranes **does not meet the exemption** criteria from the requirement for Operator National Certification.
2. Delivering anything with boom trucks or swing cab telescopic (like QMC cranes with swing seats) is also **not exempt** from the requirement for Operator National Certification.

As you can see by the NCCCO Articulating Crane Operator flow chart attached, that Articulating Cranes are **not exempt** from the Operator National Certification requirements if they are delivering precast components or precast items to the jobsite.

Chairman Sends Letter to EPA, U.S. Army Corps of Engineers on Proposed 'Waters of the United States' Rule

WASHINGTON – Chairman Ron Johnson sent letters today to the administrator of the [Environmental Protection Agency](#) and to the [U.S. Army Corps of Engineers'](#) commanding general and chief of engineers asking for details about the agencies' consultations with states, the agencies' outreach to the agricultural community, and the agencies' evaluation of their legal authority as it pertains to the proposed "Waters of the United States" rule.

The EPA and the U.S. Army Corps of Engineers have proposed to expand their jurisdiction to regulate waters under the Clean Water Act to include, potentially, streams, ditches and man-made ponds. The proposal could lead agencies to demand costly environmental assessments and federal permits from farmers before they're allowed simply to till the soil or take part in conservation practices. The Wisconsin Farm Bureau Federation and the Wisconsin Potato and Vegetable Growers Association warn that the proposal would cost jobs and become an undue burden on agriculture.

###

Text of the letters can be found below.

I write to express my concern about the Environmental Protection Agency's (EPA) and the U.S. Army Corps of Engineers' (Corps) proposed "Waters of the United States" rule under the Clean Water Act. If finalized, I worry that the rule will not only expand the EPA's and the Corps' regulatory powers beyond a scope that Congress ever intended, but it will also force farmers and ranchers as well as state and local governments to bear the burden of additional compliance costs.

In the Clean Water Act, Congress authorized the EPA and the Corps to regulate the "navigable waters" of the United States. Current regulations limit this term to cover all waters that are used in interstate or foreign commerce; all interstate waters; all intrastate waters in which the use, degradation or destruction of the water could affect interstate or foreign commerce; the territorial seas; all impoundments and tributaries of those waters; and all wetlands adjacent to those waters. The EPA's and the Corps' proposed rule, however, significantly expands this authority. Under its proposed rule, the EPA and the Corps could claim jurisdiction over smaller bodies of water that form a "significant nexus" with other navigable bodies of water that are already covered by the Clean Water Act. According to the EPA and the Corps, a "significant nexus" is formed when a pool of water "significantly affects the chemical, physical, or biological integrity of other covered waters [specified in the Clean Water Act]."

Many stakeholders in the agriculture industry worry that the EPA's and the Corps' ambiguous definition of what constitutes a "significant nexus" could lead to confusion and expose farmers to litigation. According to recent reports, the proposed rule would give the EPA and the Corps the authority to "expand the scope of water protected under the [Clean Water Act] to include not only rivers and lakes but ditches, stream-beds and [man-made] ponds that only carry water when it rains." As a result, farmers could end up having to "pay for costly environmental assessments and apply for federal permits allowing them to till soil, apply fertilizer or engage in some conservation practices."

The threat of the EPA's and the Corps' increased regulatory overreach has already triggered trepidation from many agriculture industry representatives, including farming advocates from Wisconsin. According to the *Green Bay Press Gazette*, Duane Maatz, executive director of the Wisconsin Potato & Vegetable Growers Association, warned that the proposed regulation would "be hazardous to agriculture [and] ... would cost jobs." In addition, in its November 2014 comments on the proposed rule, the Wisconsin Farm Bureau Federation (WFBF) explained that the rule "was written without consultation of states that will be designated with enforcement authority. It lacks clarity regarding exemptions. It creates confusion by changing the scope of the definitions and terminologies found within the Clean Water Act." Further, WFBF warned that the proposed rule disregards Congressional intent of the Clean Water Act and, if implemented, would result in an "undue burden on agriculture in Wisconsin."

Continued on next page

Additionally, the specific benefits of the proposed rule are unclear. In March 2014, the EPA and the Corps released its economic analysis of the “Waters of the United States” rule. Based on the agency’s and the Corps’ calculations, the total estimated cost of the proposed action ranged from \$133.7 million to \$231 million. However, according to Dr. David Sunding, a professor of agricultural and resource economics at the University of California, Berkeley, the EPA’s “entire analysis is fraught with uncertainty” and is not an accurate evaluation of the actual cost of implementing the rule. Furthermore, Dr. Sunding stated that “the errors, omissions, and lack of transparency in [the] EPA’s study are so severe [that it renders it] virtually meaningless.”

Given the criticism that surrounds the EPA’s and the Corps’ proposed “Waters of the United States” action as well as the growing concern that the rule will cost jobs and harm agriculture across the country, I ask that you please provide the following information and material:

1. According to the Wisconsin Farm Bureau Federation (WFBF), the proposed “Waters of the United States” rule by the EPA and the Corps was “written without consultation of states that will be designated with enforcement authority.” Did the EPA consult with states that will be designated with enforcement authority while writing the proposed rule?
 - a. When did the EPA’s consultation with states begin? Which EPA official(s) conducted this consultation?
 - b. If the EPA did not consult with the states, why did the EPA not consult with the states before writing this rule?
 - c. Please produce all documents and communications referring or relating to the EPA’s consultation with states that will be designated with enforcement authority.
2. According to the WFBF, under the proposed rule many waters once regulated by the state of Wisconsin would fall under the jurisdiction of the EPA or the Corps.
 - a. How many other states that already regulate bodies of water would be subject to the EPA’s jurisdiction if the proposed rule is finalized?
 - b. Does the EPA believe that the proposed rule would be duplicative in those cases?
 - c. Please produce all documents and communications referring or relating to the EPA’s deliberations for expanding its regulatory authority over waters that have traditionally been under state control.
3. How is the proposed rule compatible with Congressional intent of the Federal Water Pollution Control Act of 1948 and subsequent Clean Water Act of 1972? Please produce all documents and communications referring or relating to the EPA’s evaluation of the Congressional intent of the Federal Water Pollution Control Act of 1948 and subsequent Clean Water Act of 1972.
4. Many of the broadened definitions in the EPA’s and the Corps’ proposed rule (such as “tributary” and “adjacent wetlands”) have led to confusion within agriculture communities. What steps will the EPA take to ensure that farmers, ranchers, and small businesses understand the expanded definitions proposed by the EPA and the Corps? Please explain.
5. Under the proposed rule, the EPA and the Corps would have jurisdiction to regulate ditches, farm ponds, dry stream beds, and ephemeral streams. Does the EPA believe that a farmer should face potential liability if he fails to secure a permit for a farm pond that forms on his property after a rainstorm? Please explain.
6. In *Rapanos v. United States*, a plurality of the Supreme Court held that “the only plausible interpretation” of the phrase “waters of the United States” includes “only those relatively permanent, standing or continuously flowing bodies of water ‘forming geographic features’ that are described in ordinary parlance as ‘streams, oceans, rivers, and lakes.’ The phrase does not include channels through which water flows intermittently or ephemerally, or channels that periodically provide drainage for rainfall.” Please explain the EPA’s legal justification for how the proposed rule comports with this Supreme Court guidance. Please produce all documents and communications referring or relating to the EPA’s evaluation of its legal authority to pursue this proposed rulemaking in light of *Rapanos*.

Please provide this material as soon as possible but no later than 5:00 p.m. on February 17, 2015.

The Committee on Homeland Security and Governmental Affairs is authorized by Rule XXV of the Standing Rules of the Senate to investigate “the efficiency, economy, and effectiveness of all agencies and departments of the Government.” Additionally, S. Res. 253 (113th Congress) authorizes the Committee to examine “the efficiency and economy of all branches and functions of Government with particular references to the operations and management of Federal regulatory policies and programs.” For purposes of this request, please refer to the definitions and instructions in the enclosure.

If you have any questions, please contact Scott Wittmann of the Committee staff at (202) 224-4751. Thank you for your attention to this important matter.

Sincerely,

Ron Johnson
Chairman

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Concrete Sealants

ASSOCIATION MANAGEMENT

Executive Director/Lobbyist
George Klaetsch
Email: gklaetsch@kpasllc.com

Association Manager
Katie Boycks
Email: kboycks@kpasllc.com

WPCA Office
10 E Doty St., Suite 523
Madison, WI 53703
(608) 441-1436 · FAX (608) 441-1435
E-Mail: info@wiprecast.org

President's Letter: Paul Miller



I hope all is well and things are starting to ramp up for the busy spring season. It seems as though Old Man Winter just keeps showing up with this last blast of cold. Let's hope that's going away soon and for good for this season.

I'd like to personally thank everyone who attended the winter WPCA conference. As always thanks a million to all the vendors and all others who graciously supported this event!

The one hot topic that keeps popping up and I'm sure is on all of our minds, is the Crane Operator Certification program. Exact dates and locations are contained elsewhere in this publication. I feel it's a good thing that we all stay proactive and get our operators certified well ahead of the final due date. I would like to give special thanks to Steve Mader

and Steve Olson for all of their work with Overton to initiate this process.

Additionally, I would like to thank Rob Ausen, Marc Rowe and Bruce Weiser for representing the WPCA at the WOWRA convention recently. I am disappointed I was unable to attend the convention as I had a conflict in my schedule.

I would like to request that you all keep in mind the summer convention will be upon us before we know it. It is scheduled for July 10-11th at the Kalahari Resort. We will be touring the Weiser Plant as well. All WPCA members will receive additional information as the date approaches.

Lastly, it is with mixed emotion that I have learned Katie Boycks will be leaving the association. I wish Katie the best in her future endeavors. She has been instrumental in managing the administrative functions and will sincerely be missed. George is in the process of finding a replacement for Katie. Once that process is complete, we will communicate that out to the members.

Until next time, good luck thawing out from this frigid cold and let's get geared up for Spring!!

Paul Miller

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WPCA Scholarship Recipients— Congratulations!

Thanks to the generosity of the following companies the WPCA was able to award scholarships to 3 individuals: Alyssa Wieser, Derrick Brungraber and John Metzinger—
Congratulations!

Concrete Sealants
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If you are interested in donating, please send your contribution via check to
WPCA— 10 E. Doty St., Suite 523 — Madison, WI 53703
Or donate online at www.wiprecast.org under the Scholarship Fund tab
Thank you for your generosity!

WPCA Calendar of Events:

July 10-11
Summer Conference
Kalahari Resort
Wisconsin Dells

January 12-13
Winter Conference
Hotel TBD
Madison, WI

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Legislative Update: Executive Director, George Klaetsch



Walker Budget Proposals Cause Concerns Among Septic Trades

Governor Walker introduced his 2015-2017 executive budget to the legislature on February 3rd. In his budget proposal, the governor recommends a \$35.9 billion operating budget in fiscal year 2015-2016 and \$32.3 billion budget in fiscal year 2016-2017. This includes all major funding sources (general purpose revenue – GPR, segregated revenue – SEG, federal revenue – FED, and program revenue – PR). The governor’s GPR budget is \$15.8 billion and \$16.9 billion in fiscal year 2015-2016 and 2016-2017, respectively. This is a .3 percent decrease in state spending for fiscal year 2015-2016 over the 2014-2015 base, and a 6.7 percent increase in spending in fiscal year 2016-2017.

There were three items in the Governor’s proposal that affect the septic trades. The three items were:

1. Transferring funding and position authority relating to the review of POWTS program from the DSPS to the DNR and thus centralizing oversight of septage systems in one agency
2. Eliminate the POWTS grant program (Wisconsin Fund) at a cost savings of \$2.4 GPR annually
3. Increasing financial support to the Environmental Fund at the DNR

There are general concerns and outright opposition to the first two items in the budget proposal. Specifically, the elimination of the Wisconsin Fund creates hardships for fixed-income families who are unable to afford a replacement or rehabilitated POWTS if their county inspectors deem it failed during inventory and maintenance inspections. From FY 2012 to FY 2015 almost 3,000 Wisconsin families have successfully worked with County and State DSPS officials to apply and receive grants to assist in affording the replacement or rehabbed POWTS. There are also 448 households who have applied for Wisconsin Fund grants for FY 2016 and if the budget passes as proposed, those families would not receive any grant relief due to its elimination. As of this writing, the WLWCA will work with the legislature to restore funding of this very worthwhile program.

As mentioned last month, the budget takes approximately 5-6 months to pass. The next step in the process will be the Legislative Fiscal Bureau taking 3-4 weeks to prepare a comprehensive analysis of the bill for the Joint Finance Committee (JFC). The JFC is a 16-member legislative committee comprised of both Representatives and Senators. Starting in mid-March, JFC will schedule committee hearings and invite selected agency heads to appear and testify before the committee on their respective agency budgets. Public hearings on the bill are then held in 3-5 locations throughout the state, starting in March and completed by mid-April.

After the agency and public hearings, JFC begins meeting several days each week through the end of May to take votes on various aspects of the bill. At the end of the JFC budget process, all JFC modifications to the governor’s bill are incorporated in a substitute amendment and sent to the full legislature for floor votes in each house.

The legislature generally takes the bill up in June and sends their final product to the Governor by the end of the month. The Governor completes veto review within 30 days of receiving the bill, and then signs it into law.