

THE FLOW

SEPTEMBER 2024

Upcoming Events

September 26th

Trivia Night

Intuition Ale Works

6:00 pm

Oct. 1st

Next Man Up

Equipment Safety

Ring Power

6:00 pm

Oct. 3rd & 4th

NUCA of Florida

Board Meeting &

President's Cup Golf

Longboat Key Club

Longboat Key, FL

See flyer on Page 15

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PRESIDENT'S MESSAGE

Dear Friends and NUCA members,

It is September and with Labor Day the “unofficial end of summer”. I know we are all ready for some cool weather approaching and all the fall season will bring. Thank you to all our monthly sponsors, members and contributors that allow us to operate and support our industry.

August was a very wet month starting off with Hurricane Debby, then continuous rain throughout. I hope that you all were able to stay safe and preserve through these difficult working conditions and we may have more suitable conditions this month. We hosted our annual fishing tournament last month and had a great turnout. Thank you to all who participated and all those involved in coordinating it.

This month we have some great events with the Safety Director’s Forum September 19th and our new event Trivia night September 26th. I look forward to seeing you there. In October we will be having a next man up class with the help of Ring Power teaching about Heavy Equipment Safety. Be sure to contact Kathy with any questions or register attendees.

Everyone should have received an email with the description of our Executive Director position that we need to fill as Mrs. Kathy is preparing to enter a much-deserved retirement. Please spread the word and encourage any applicants that you feel are qualified.

Best regards,

Caleb

Caleb Hurlbert
Project Manager, A.J. Johns, Inc.

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Rinker Materials

CALENDAR OF EVENTS

Upcoming Events

September 10th
Executive Committee Meeting

September 19th
Safety Director's Forum
11:30 am

September 26th
Board of Directors Meeting
4:30 pm

September 26th
Trivia Night
Intuition Ale Works
6:00 pm

Oct. 1st
Next Man Up
Equipment Safety Training Class
Ring Power

October 3rd & 4th
NUCA of Florida
Board Meeting &
President's Cup Golf
Longboat Key Club

The Law and Your Business

The Law and Your Business – Status of FTC Non-Compete Ban

Tony Zebouni, Lindell, Farson & Zebouni, P.A.

The Federal Trade Commission (“FTC”), after public hearing pursuant to its rule making authority, determined that non-compete clauses are an unfair method of competition, and therefore a violation of Section 5 of the FTC Act, for employers to enter into non-competes with workers and to enforce certain non-competes.

On August 20, 2024, the United States District Court for the Northern District of Texas issued a permanent injunction blocking the FTC’s “Non-Compete Rule that would have placed a nationwide ban on nearly all non-compete clauses with workers. The Plaintiff argued that the FTC violated the Administrative Procedure Act (“APA”) with its ban on non-competes because: (1) it lacked the authority to promulgate the rule; (2) even if it had authority to issue the rule, this was in violation of the non-delegation doctrine; (3) the rule is unlawfully retroactive; (4) the FTC was arbitrary and capricious; and (5) the FTC is “unconstitutionally insulated from presidential control.”

The Court focused on two arguments: (1) that the FTC exceeded its statutory authority by promulgating this ban; and (2) that the rule is “arbitrary and capricious.”

As the legal basis for its non-compete rule, the FTC relied on its authority in Section 6(g) of the FTC Act, which grants additional powers to implement Section 5, which “prohibits unfair or deceptive acts or practices in or affecting commerce.” Judge Brown agreed with the plaintiffs that this Section “does not authorize substantive rulemaking,” including the ban on non-competes. In particular, the Court found that Section 6 of the FTC Act does not prescribe any sanctions or statutory penalty for violating rules promulgated under that section, suggesting an authority to issue only “housekeeping rules,” which the ban on non-competes decidedly is not. Without an explicit grant of authority from Congress, the Court concluded, she would not infer substantive rulemaking authority.

The Court’s decision is likely to be challenged on appeal, but as of now, the ban on non-competes will no longer go into effect on September 4. A key question will be how this recent decision is squared with the earlier decision out of Pennsylvania, where the court found the FTC did have statutory authority to promulgate the non-compete rule.

In the meantime, companies that rely on non-compete agreements should continue to assess the legal risks of enforcing them, as the legal issues surrounding the FTC’s rule work their way through the appellate process.

YOUNG PROFESSIONALS NIGHT HIGHLIGHTS

It was a fun night at Strings Sports Brewery for our Young Professionals. We had over 50 people registered to attend this event with a good mix of associate and contractor members. Thank you to Advanced Drainage Systems for sponsoring this event. We are excited to see so much interest in this new group. We will be extending an invitation to all the young professionals to join us at our meeting on September 26th at Intuition Ale Works where we will be having our first Trivia Night. We are in the process of looking at the location for our next Young Professionals event on Wednesday, October 23rd. Look for more details soon!



WELCOME NEW MEMBERS

Please join me in welcoming the following companies who recently joined our association.

Shenandoah Construction

Contact: Audi Goyos, Business Development
1888 NW 22nd Street, Pompano Beach, FL 33069
Phone: 754-704-5575 Cell: 239-989-4709
Email: a.goyos@shenandoahus.com
Website: www.shenandoahus.com

Vallencourt, Inc.

Contact: Robert Nelson, Safety Director
1555 Kingsley Ave, Ste 302, Orange Park, FL 32073
Phone: 904-378-1313 Cell: 904-568-6862
Email: robert@vallencourtinc.com
Website: www.vallencourtinc.com

Osborne Training & Consulting Group, LLC

Contact: Peter Osborne, Founder/Principal
155 Bartram Market Drive, Suite 135, PMB 234, Saint Johns, FL 32259
Phone: 904-800-9797 Cell: 321-591-6895
Email: Peter@osbornettc.com
Website: www.osbornettc.com

JDS Inc.

Contact: Melissa Montgomery, Project Specialist
P.O. Box 4317, Tampa, FL 33677
Phone: 678-244-5629 Cell: 678-469-3383
Email: mmontgomery@jdspipe.com
Website: jdspipe.com



Appropriations Fights Loom In September

House and Senate lawmakers left town at the beginning of August deeply divided over annual funding – but in a possible sign of progress, water infrastructure spending cuts proposed by House Republicans are significantly lower than those initially put forward in 2023.

Just before leaving town on August 1, the House voted mostly along party lines to pass their version of the FY2025 Interior/Environment Appropriations bill, which would cut the EPA’s budget by 20%, a decrease of \$1.8 billion. Unfortunately, the legislation contains significant problems. Under the proposal, the Drinking Water SRF is slated to receive \$883 million (down from \$1.126B in FY2024) and the Clean Water SRF \$1.203B (down from \$1.126B). Earmarks remain an issue, with the proposal allocating \$1.033B out of the total of \$2.086B to 895 drinking water, wastewater, and stormwater projects nationwide. It is not expected to become law in its current form, and negotiations with the Senate and the White House will have to take place before any spending agreement is reached.

The Senate has yet to advance any spending bills out of the chamber, but in contrast their proposed bill does not significantly alter water funding from FY2024 levels.

Both chambers will return in September under immense pressure to reach a spending agreement, with a deadline to fund the government by September 30th. It is worth noting that the FY2024 appropriations process outlasted 2023, and with election 2024 ongoing it is likely that we end the federal fiscal year on September 30 under a Continuing Resolution (CR) keeping funding flat until 2025. NUCA will continue to advocate for sustainable levels of water infrastructure funding and will keep our members updated on any developments in Congress.

U.S. House and Senate Pass Bipartisan WRDA Acts

Both chambers of Congress passed their version of the "Water Resources Development Act" (WRDA) before leaving for their August break. The U.S. House of Representatives approved WRDA (H.R. 8812) on July 22 on a 359-13 vote, while the Senate unanimously passed its version (S. 4367) on August 1. This NUCA-supported legislation regularly authorizes the U.S. Army Corps of Engineers to develop and construct projects to improve the nation’s ports and harbors, inland waterway navigation, flood and storm protection, and other aspects of this nation's maritime and water infrastructure.

Since the bill versions contained different priorities, the Senate's Environment and Public Works Committee and the House's Transportation and Infrastructure Committee will begin the conference process to resolve the differences between the two bills. Their work is expected to conclude in September.

Senate Committee Passes Permitting Reform Bill

The Senate Energy & Natural Resources Committee approved on July 31 the bipartisan Manchin-Barrasso "Energy Permitting Reform Act of 2024" (S. 4753). This NUCA-supported bill would take important steps to streamline and reform the federal permitting process. The reforms in this bill place important guardrails and timelines on legal challenges that often indefinitely delay projects, accelerate timelines for leasing and permitting of energy projects on federal lands, and backstops approval authority for vital electric transmission projects. While this bill will mainly affect oil and gas, renewable energy such as offshore wind, and electric infrastructure construction projects, it does demonstrate further intentions by Congress to address permitting reform. NUCA will be advocating for a full Senate vote on the bill by the end of the year, and supports expanding the scope of its reforms to include water infrastructure, broadband, and other underground utility projects.

Catie Amsden: Delivering A New Style To NUCA’s Events

NUCA announced Aug. 13 that Catie Amsden has joined NUCA to lead the association’s marketing and event programs. Catie will be the primary manager of the association’s marketing, national partner program and execute the planning for various national meetings events throughout the year. She will spearhead creating marketing content for the association for NUCA’s various meetings and events. Catie will also manage NUCA’s national partner program including renewal of current sponsors and identify new business opportunities for the program.

SAFETY NEWS

By Jeff Blomgren
Chair, NUCA Safety Director's Forum

Drug test cheating surges to highest rate ever annual index shows:

The number of US workers whose drug tests showed signs of tampering skyrocketed in 2023 to its highest level in over 30 years according to Quest Diagnostics annual drug testing index.

Researchers from the lab services provider examined the results of nearly 9.8 million samples taken last year. The samples were from both the general workforce and employees in safety sensitive jobs who undergo federally mandated drug testing including pilots truck drivers and train conductors.

Substituted urine specimens in the general workforce soared 633%. Invalid urine specimens among this group rose 45.2%. The increased rate of invalid or substitute drug test samples which Quest Diagnostics says suggest an attempt to conceal drug use coincides with historically high rates of both drug positivity and the general workforce and post incident positively which has gone up 114% since 2015.

Marijuana positivity in the general workforce has jumped 45% since 2019 while cocaine positivity went up 9%. We see increasing rates of drug use in the workplace that seem to parallel the legalization of certain drugs by the states, ushering in the possibility of users progressing to stronger and more addicting drug use. It gets more and more challenging to comply with the drug free workplace environment that is the hallmark of industry. It's up to us, as employers, to have a sound policy and procedures in place to insure the safety of non-users, and those we are responsible for, from those who choose to compromise their employment by making bad choices and who create a safety liability for all of us.



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Who We Are

Horizon Pipe specializes in using advanced video technology to inspect the interiors of pipelines and sewer systems. Our state-of-the-art CCTV (Closed-Circuit Television) pipe inspection services are essential for identifying issues such as blockages, cracks, leaks, and other structural problems within the pipes.

Why Choose Us?



Expert Technicians

Our team of skilled technicians is trained to handle the most complex pipe inspection and maintenance tasks.



Cutting Edge Equipment

We use the latest technology to ensure accurate and efficient service delivery.



Customer Satisfaction

We prioritize our clients' needs and provide detailed reports and recommendations for optimal pipe maintenance.

Our Services

CCTV Pipe Inspections

- Advanced Technology
- Real-Time Monitoring
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Pipe Cleaning with Vacuum Trucks

- High-Powered Suction & Water Jetting
- Efficient Debris Removal
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Understanding MOD Ratings and Their Impact on Your Workers' Compensation Premiums

What is a MOD Rating?

The MOD rating is a numerical value used by insurance companies to gauge the level of risk associated with your business compared to others in your industry. It is calculated based on your company's history of Workers' Compensation claims, specifically looking at the frequency and severity of these claims over the past three years.

How Does Your MOD Rating Affect Your Premiums?

- **Below 1.0:** If your MOD rating is less than 1.0, your company is considered a lower risk, and you may qualify for a discount on your Workers' Compensation premiums. For example, a MOD of 0.80 could reduce your premiums by 20%.
- **Equal to 1.0:** A MOD rating of 1.0 means you pay the industry average for your Workers' Compensation premiums.
- **Above 1.0:** If your MOD rating is above 1.0, your company is viewed as a higher risk, leading to increased premiums. For instance, a MOD of 1.25 could increase your premiums by 25%.

Strategies for Improving Your MOD Rating

1. **Implement Return-to-Work Programs:** Encourage injured employees to return to work as soon as they are medically able, even if it means adjusting their duties. This can reduce the severity of claims and positively influence your MOD rating.
2. **Conduct Regular Safety Audits:** Regularly review job sites and processes to identify and mitigate potential hazards. Proactive safety measures can prevent accidents before they happen.
3. **Analyze Claims Data:** Review your Workers' Compensation claims data to identify patterns or recurring issues. Addressing these issues promptly can help prevent future claims and improve your MOD rating.

Conclusion

Your MOD rating is a powerful indicator of your company's risk level and plays a significant role in determining your Workers' Compensation premiums. By understanding how it is calculated and taking proactive steps to improve your safety record, you can reduce your insurance costs and protect your bottom line. Remember, a strong safety culture not only benefits your employees but also contributes to the financial health of your business.

2024 FISHING TOURNAMENT RESULTS

We had a nice breeze for our weigh-in this year at the Northeast Florida Marlin Association in St. Augustine on August 24th. Our new caterer, Cowboy Q Catering, provided BBQ of brisket, chicken, hot dogs and sausage dogs, beans, mac n cheese and banana pudding cake. Thank you to our helpers , Rick Parker, Rinker Materials was our D.J. and announcer, Kim Bryan, The Hutson Companies and her daughter Riley, worked filling out weigh-in cards, handing out door prizes and Cathie Milam for her help setting up. Our fishing Chairman, Ashton Milam, United Rentals Fluid Solutions, gave out raffle prizes and awards. We had a record 21 kids 13 and under registered for the tournament this year. Thank you to Joe Maguire with Coastal Utility Constructors for the generous donations of gift cards and to Joe Geiger, Cemex for the donation of the 3Yeti buckets. Congratulations to the winners of this year's tournament.

REDFISH

1st Place William Rios, T.G. Utility, 6.39 lbs
2nd Place Caroline Geiger, Cemex, 5.76 lbs
3rd Place Tony Kraus, Petticoat-Schmitt, 5.56 lbs

FLOUNDER

1st Place Jack Geiger, Cemex, 2.55 lbs
2nd Place April Mickler, Petticoat-Schmitt, 2.50 lbs
3rd Place Hunter Newton, Florida Pumping, 1.24 lbs

KINGFISH

1st Place Mark Gowen, Cecil W. Powell, 20.08 lbs
2nd Place Mark Gowen Cecil W. Powell, 4.45 lbs

SEA TROUT

1st Place Lauren Atwell, Petticoat-Schmitt

OTHER SPECIES

1st Place Mark Gowen, Cecil W. Powell, Barracuda, 20.29 lbs
2nd Place Charlie Pugh, T.G. Utility, Mangrove Snapper, 1.17 lbs
3rd Place Caleb Mickler, Petticoat-Schmitt, Whiting, 1.11 lbs

KID'S TROPHY FOR THE LARGEST FISH

Mark Gowen

FISHING DIVA

Caroline Geiger

REDFISH MOST SPOTS

Caroline Geiger

GRAND PRIZE WINNER—\$150 CASH

Jack Geiger

KID'S PRIZE WINNER—\$50 GIFT CARD

Mark Gowen

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FISHING RAFFLE WINNERS

\$500 Cash

Donated by Linder Industrial Machinery

Winner: Drew Jones, Cecil W. Powell

IMX Marine Igloo Cooler

Donated by Company Wrench

Winner: Coleson Baum, Company Wrench

\$250 Amazon Gift Card

Donated By United Rentals Fluid Solutions

Winner: Steve Robbins, Ritchie Bros.

Bluetooth Speaker

Donated by Sunstate Trench Safety

Winner: Joe Maguire, Coastal Utility Constructors

Bayou Fryer Package

Donated by Sunstate Trench Safety

Winner: Steve Robbins, Ritchie Bros.



Fishing Photos





2024 PRESIDENT'S CUP & BOARD AND COMMITTEE MEETINGS

**The Resort at Longboat Key Club
in Sarasota, FL**

Thursday & Friday, October, 3rd-4th

Thursday, October 3

Executive Committee Meeting 10:00 am - 12:30 pm

Chapter Director Meeting 12:45 - 1:30pm

Advocacy Meeting 1:30- 2:30 pm

Conference Committee meeting 2:30 - 3:00 pm

Board Meeting 3:00 - 5:30 pm

Happy Hour 6:00 pm

Friday, October 4th

President's Cup Golf Event- Start time TBD

Awards Luncheon to follow

Join with the NUCA Florida board members and leadership at the President's cup in beautiful Longboat Key. Network with industry colleagues, advocacy partners and peers at the Thursday evening reception.

This year we are offering 2 styles of play, the traditional scramble and 2-man best ball competitive style flight with a 50/50 buy in and cash prize.

***Visit www.nucaflorida.org to register
to become a sponsor for this prestigious event.***

*Questions? Contact Kate McDougall
at 850-696-6674 or email kate@nucaflorida.org*

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SEPTEMBER FEATURED SPONSOR



Our company was started in June 2020 with the belief that quality over quantity is paramount. The need for the quality and services of our company was what was lacking in the industry. Florida Pumping Solutions was created to fill the void in the industry of quality, service, communication and customer appreciation. Once this was established our loyal customers saw the difference between us and the rest of the industries companies. We decided to invest in the model we developed and continue our vision to always be the best. We always strive to provide the best work environment, equipment, customer service, knowledge, and solutions in the industry with professionalism and pride.



FLORIDA BRANCHES
SAINT AUGUSTINE - TAMPA