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THE ILLINOIS **Manufacturer**

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Spring 2015

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work rules to avoid NLRB charges**

Handling an EEOC charge—Part II

**Protecting your company from cyber
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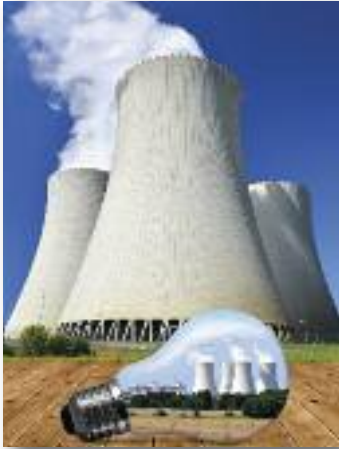
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Mission Statement

The object for which the Illinois Manufacturers' Association was formed is to strengthen the economic, social, environmental and governmental conditions for manufacturing and allied enterprises in the state of Illinois, resulting in an enlarged business base and increased employment.

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Share your company news with IMA . . .

News information, press releases and articles may be sent to Stefany Henson, Editor and Director of Publications, Illinois Manufacturers' Association (IMA), 220 East Adams Street, Springfield, IL 62701, or email: shenson@ima-net.org.



Manage volatile energy costs with Constellation



... it is important to be proactive in taking advantage of today's low energy prices in light of the market fundamentals that could push prices higher in the near future.

According to the ISM-Chicago Business Barometer, the manufacturing industry has been a driver of regional economic growth over the past year. One reason for this success is that our industry has benefited from a competitive advantage due to low energy prices in the U.S. However, this past winter has provided us with yet another example of how volatile energy markets can be, and also reminds us how important it is to establish a comprehensive energy risk management strategy. In our highly competitive industry, where success hinges on the cost of our inputs, the truth is that manufacturers cannot afford to be complacent about actively managing their energy budgets. With that in mind, I come to you with two pieces of good news this spring:

First, according to the EIA, record-setting natural gas production in the U.S. has pushed gas and power prices to historically low levels. NYMEX natural gas prices in the forward market are at all-time lows through 2020, while forward power prices in Illinois are within five percent of record low levels. Energy buyers can take advantage of these prices right now to 'lock-in' low rates for their future energy needs, thereby reducing and stabilizing their energy costs for years to come.

Secondly, you do not have to navigate the complex energy marketplace alone. Constellation, our endorsed energy supplier, is here to help guide you through the price volatility in the market and can develop an energy risk management strategy that is tailored to your needs.

It should come as no surprise that the discovery of shale gas and the development of fracking technology have revolutionized the energy market in the United States. An abundant supply of natural gas has pushed energy prices to record low levels. Data from the EIA show that U.S. natural gas production reached an all-time record in late-March 2015, led by production in the Marcellus and Utica shale regions in Pennsylvania, Ohio and West Virginia. Companies are building expanded pipeline capacity to move natural gas into higher priced demand regions, and the Midwest is a major destination for this excess supply. For gas and power customers in Illinois, this should increase the reliability of gas supply and result in lower and less volatile energy prices.

On the other hand, energy prices are not likely to stay this low forever. As gas prices in the producing regions fall closer to producer break-even points, production growth becomes increasingly likely to slow. This is supported by declining natural gas rig counts, which have fallen by 38 percent across the country since November 2014, according to data from Baker Hughes. Gas demand for power generation is also likely to increase this summer as the EIA projects close to 20 GW of coal-fired capacity is slated to retire this year due to EPA regulations. Therefore, it is important to be proactive in taking advantage of today's low energy prices in light of the market fundamentals that could push prices higher in the near future.

With energy costs being one of the top three budget items for most manufacturers, our future competitiveness is a function of our ability to take advantage of historically low gas and power prices. We encourage our members to work with our preferred energy provider, Constellation, to take an active role in developing an energy risk management strategy. Your bottom-line, the success of our industry and the health of our nation's economy depend on it. ■





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For more information, contact National Industrial Products Practice Leader and IMA board member **Karen Kurek**, at karen.kurek@mcgladrey.com or 312.634.3920.



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Long, hot summer at the Capitol



Rather than working on a compromise that involved budget and structural reforms, Democrats drew a line in the sand indicating that they should not be linked together.

As I pen this column, I'm sitting in my office a block from the State Capitol on the cold and blustery last day of May listening to the House of Representatives and Senate go through a litany of last minute legislation. Rushing to pass legislation and advisory resolutions before the clock winds down is standard operating procedure for lawmakers before they adjourn for the summer.

But 2015 is different. For the first time since 2007, when disgraced former Governor Rod Blagojevich occupied the state's top office, the Governor and General Assembly did not reach agreement on a spending plan for the state's fiscal year that begins in July. While thousands of bills and amendments get filed every year on issues ranging from bobcat hunting to seafood labeling to unmanned drone regulation, the only thing that must get done is passage of a state budget.

Our elected officials have failed to meet this basic budgeting task before the scheduled deadline of May 31. So, Governor Rauner and members of the General Assembly will be returning to the State Capitol over the summer until they can reach an agreement.

Democrats did pass a \$36 billion budget out of the General Assembly in the final week of session — over Republican opposition and before the deadline. However, they publicly admitted that their budget was unbalanced, even though it demonstrated their “priorities.” Governor Rauner rightfully pledged to veto their budget which contains a massive \$3 billion hole at a time when the state already faces a \$6 billion backlog of bills and the worst-funded pension system in the United States.

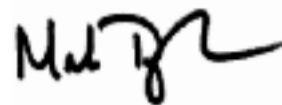
The Governor and lawmakers are working with slightly more \$32 billion in revenue following expiration of the temporary income tax increase last December. Governor Rauner has expressed a willingness to add up to \$3.5 billion in new revenue through an increased income tax or expansion of the sales tax on services in exchange for the passage of major structural reforms contained in his Turnaround Agenda.

Designed to address Illinois' languishing economy, Governor Rauner's comprehensive reforms include workers' compensation reform, empowerment zones where local governments can determine whether to allow Right to Work, property tax freeze, tax reform, term limits and redistricting reform. The Illinois Manufacturers' Association has long championed many of these reforms which will make our state more attractive for job creators and capital investment.

Rather than working on a compromise that involved budget and structural reforms, Democrats drew a line in the sand indicating that they should not be linked together. Over the past three weeks of session, a handful of committee hearings were held and subsequent votes were taken in an effort to show that the General Assembly does not support key reforms such as Right to Work, workers' compensation, and balancing the court system. All of these structural reforms failed on partisan roll call votes.

Long-time Springfield political observers correctly described the final days of session like watching a train wreck in progress. It came to a head on the final day of session when Governor Rauner and each of the four legislative leaders held separate press events to take shots at the other party. Democrat leaders accused the Governor of being extreme and dismantling the middle class. The toxic atmosphere around the State House culminated in a late afternoon press conference in which the Governor accused House Speaker Michael J. Madigan and Senate President John Cullerton of “running the state into a ditch.”

So, we're now at a stalemate with a showdown between newly inaugurated Republican Governor Bruce Rauner and two long-time Democrat stalwarts with firm control of their respective chambers. Nobody knows how the story will end, but it's going to be a long, hot summer in Springfield. ■



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Handling an EEOC Charge—Part II

Once an EEOC charge has been filed, there are two options for you to consider

In Part I of Handling an EEOC Charge, we discussed how to defend against an Equal Employment Opportunity Commission (“EEOC”) charge before it is even filed.¹ Now, we will address how to handle an EEOC charge once it makes its way across your desk. This article will give you tips to effectively respond to an EEOC charge and limit what could be a costly pay out.

EEOC’s role

As background, an employee has a right to file a charge of discrimination with the EEOC. The EEOC enforces the federal laws that make it illegal to discriminate against a job applicant or an employee because of a person’s race, color, religion, sex, pregnancy, national origin, age, or genetic information. The EEOC also accepts charges that a person was retaliated against because they complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit. In 2014, the EEOC received 88,778 charges nationally.²

Tips to effectively defend an EEOC charge

Once an EEOC Charge is filed, there are two options: mount a defense or put yourself in a position to settle. Either way, you will need to address the charge, and here are several tips that can help you do so.

Contact your attorney

Once a charge is filed, consulting with an attorney is highly recommended. An attorney experienced in

this area will take an analytical and impartial view of the charge and your evidence, and can provide advice as to which path makes the most sense. Some cases just need to be settled and some cases are worth the fight. Having an objective review of these options can be invaluable.

Consider mediation

Early on in the process, the EEOC will likely ask if the parties want to mediate. In many cases, the first instinct is to fight the charge. However, sometimes mediation is a less costly and more practical approach. EEOC sponsored mediation is free for both parties. An employer must understand that going to mediation means it may have to write a check to a former employee. Going to mediation puts the investigation on hold. Both sides must agree to mediation.

Fully participate in the investigation, but be careful

If mediation is not an option, then the next step is to participate in the EEOC’s investigation. A company should take discrimination charges seriously and assure that all responses are timely and carefully given. Anything said to the EEOC investigator is an admission that can and will be used later in litigation by any competent plaintiff’s attorney. It is important that all responses be developed with input and guidance of legal counsel to assure that privileged and confidential information is not accidentally given to the investigator.

Investigators are overworked and have many charges to review. If you can provide the investigator with a detailed roadmap, well documented and supporting the company’s decisions (see Part I), it will help the

see **EEOC CHARGE** page 8



Footnotes

1. Part I was published in the Winter 2015 Illinois Manufacturer

2. Most states have similar laws and agencies and the tips and strategies in Part I and Part II can generally be used in responding to charges filed with these state agencies.

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EEOC CHARGE

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investigator draw a conclusion that should be favorable to the company.

Although you should keep the lines of communication open with the investigator and assist in obtaining requested information, a company does not have to comply with every EEOC information request. Instead, it is important to limit the scope of the agency's investigation to information that is relevant to the issue. For example, requests seeking information from different plants or different departments within a plant may not be relevant and should be carefully scrutinized before being answered. Experienced counsel can guide you in making these decisions. **Give your position statement the attention it deserves**

The company's position statement is the key communication to the EEOC and must be crafted carefully. A proper position statement can only be drafted after a comprehensive investigation of the allegations has taken place. Once a position statement is filed, the company is locked into the reasons for the company's decision which is in question. Changing the reason for an employment decision later only makes the EEOC or a plaintiff's attorney think the initial reason was untrue. This can severely undermine the company's litigation position. Each position statement is unique and must address the specific allegations presented.

This is where the tips from our first article (Part I) come in handy. If the company has sufficient documentation to support its rationale, then the position statement essentially writes itself. The company merely tells the story of why the employee was disciplined or terminated using the documentation as a guide and as exhibits. However, if the position statement is vague, unsupported, or leads the EEOC to believe that the company is intentionally hiding information, a bad outcome becomes more likely.

Most employee situations have "bad facts." Addressing bad facts in a position statement is an "art form." You must address the bad facts in your position statement because the former employee has certainly told

the EEOC about them. Failing to address the bad facts screams that you have no answer.

One case highlights the importance of carefully crafting a position statement. In *Kwan v. Andalex Group, LLC*, the district court granted summary judgment in favor of the employer on all claims. However, the Second Circuit reversed this decision. After going through the language in the employer's EEOC position statement, the court found that although the employer initially stated that a change in business focus made the charging party's skill set obsolete, there was language in the statement that instead shifted the explanation that the charging party's poor performance and bad behavior were the reasons for the termination. Because of the employer's "inconsistent and contradictory explanation for the plaintiff's termination," the employer was forced to either settle the case or face a jury trial. Had the position statement centered around one supported reason for the termination, instead of trying to change the argument and giving the sense that the employer was being deceitful, this summary judgment finding may have been affirmed.

Responding to a request for information

Oftentimes the EEOC will send an employer a Request for Information. This request seeks documents or other information. These requests are many times a pre-printed form containing questions that do not pertain to the claims in the Charge or go far afield in terms of asking for information. If your position statement is a comprehensive and thorough document, many of the questions can be answered by "see Position Statement." The employer should respond to the Request in good faith answering the questions it can and objecting to questions that are irrelevant or overbroad. Counsel can help guide you in making that determination. If the EEOC truly wants that information, they will send a follow-up request.

Conciliation: Be Prepared to Argue, but Also Be Prepared to Settle

If the EEOC finds "reasonable cause" to believe a company has broken the law, it is required to conciliate the underlying bias claims before deciding whether a lawsuit is appropriate. If the case proceeds to

conciliation, a company needs to be prepared for the possibility of settlement. Even if the company disagrees with the charge or the "reasonable cause" finding, the EEOC isn't looking for a company to come to the conciliation simply to try to change the EEOC's mind. Instead, the EEOC is typically looking for settlement to occur. Therefore, whoever attends the conciliation for the company must have settlement authority.

Many cases fail to resolve during conciliation. It is important to document what occurred during the conciliation process. The parties should reduce their positions to writing after meetings where the parties attempted to reach a deal. This is important for several reasons. First, the EEOC investigator may not be the person at the agency making key decisions. A written record can help lay out arguments for another person without relying on the investigator to accurately portray them. In addition, this documentation can help clear up later disputes during litigation about what the parties' positions were during the conciliation process. Relying on the recollections of what occurred during the conciliation process can pose risks since recollections can fade or change as time passes.

Never, ever, ever retaliate

Once an EEOC charge is filed, many employers take it personally. There is a natural tendency to want to confront or retaliate against the employee who filed the charge. It is important to assure that there is no retaliatory action. This is not just against the charging party, but also against any potential witnesses. An employer and any employees holding management or supervisory positions should be very careful to assure that no retaliation takes place. The EEOC handles a great many retaliation charges. There have been times when the underlying claim of discrimination is weak, but the employer retaliates and provides the employee with a strong retaliation case.

Conclusion

There are many tips on how to defend an EEOC charge, and this article simply touches the tip of the iceberg. An employer's best resource is a person who has experience dealing with EEOC charges, as this person will already know these and other strategies well. ■

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- ELI 107 (A), OR
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- ELI 109 (C or better), AND Basic Algebra Readiness as defined in the college catalog.

Note: When you take a full credit load, you will finish the entire program within 12 months.

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ARM 112	Fundamentals of High Tech Manufacturing II	1
ARM 113	Fundamentals of High Tech Manufacturing III	1
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ARM 133	Robot Design and Construction III	1
ARM 151	Mechanical Systems I	1
ARM 152	Mechanical Systems II	1
ARM 153	Mechanical Systems III	1
ARM 156	Electrical Systems I	1
ARM 157	Electrical Systems II	1
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ARM 171	Automation I	1
ARM 172	Automation II	1
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According to the Illinois Manufacturers' Association, 30,000 production workers are needed per year in Illinois for the next 10 years.

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2015 Spring cleaning: Dust off your work rules to avoid NLRB charges

This year has seen a flurry of activity at the National Labor Relations Board which is doing its darnedest to promote its mission of encouraging union organizing and fostering collective bargaining. This activity has many fronts. Since the beginning of the year, employees have had the legal right to use their employer's email systems for union and protected activity on their non-working time. This allows employees to use the employer's email systems to organize a union, or engage in concerted activity in their own self-interest, during their breaks and lunch hours.

On April 14, the NLRB's "expedited" representation case election rules went into effect. These rules drastically shorten the time between the filing of a representation petition and a secret ballot election to determine union representation. These "quickie" election rules drastically reduce the amount of time that an employer has to respond to a union organizing drive, with the goal of making it easier for employees to become unionized.

At the same time, the NLRB is seeking to empower service workers by piercing the franchise business model. The Board is seeking to change the "joint employer" doctrine so that a franchisor and franchisee are deemed to be "joint employers" for purposes of substantive labor law and the remedies and consequences of labor law obligations and violations. The Board has also stepped up efforts to provide effective remedies to illegal aliens who have been subjected to unfair labor practices.

NLRB continued scrutiny of work rules

Many employers have spent considerable time examining and developing their no-solicitation/no-distribution policies, social media policies, and electronic communications policies in light of NLRB case law and previous memorandums of the NLRB General Counsel (GC). Recently, the GC issued a memorandum analyzing the Board's recent decisions dealing with other employer work rules, that may exist alone or as part of an employee handbook. GC Memorandum 15-04 (March 8, 2015). Employers are urged to have their policies and work rules thoroughly reviewed, in light of the GC Memorandum, to ensure that they do not run afoul of the National Labor Relations Act (the "Act"). This

is because the maintenance and enforcement of unlawful rules could have unintended and costly consequences, such as causing backpay liability for an unlawful discharge, or the setting aside of a union-free election victory, and the rerunning of the representation election.

Under Board law, the mere maintenance of a work rule may violate Section 8(a)(1) of the National Labor Relations Act (the "Act") if the rule has a chilling effect on an employee's Section 7 rights (i.e., the right to engage in union activity or protected, concerted activity). *Lutheran Heritage Village-Livonia*, 343 NLRB 646 (2004). In addition to explicit rules that prohibit Section 7 activity, a work rule can be found unlawful

see [NLRB CHARGES](#) page 12



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NLRB CHARGES

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if 1) employees would reasonably construe the rule to prohibit Section 7 activity; 2) the rule was promulgated in response to union or protected, concerted activity; or 3) the rule was actually applied to restrict union or protected, concerted activity.

Work rules regarding confidential information

Employers need to review their confidentiality rules to assure that they do not run afoul of the Act. Employees have a right under Section 7 of the Act to discuss wages, hours, and other terms and conditions of employment with employees and third parties, such as union representatives and government agencies. A confidentiality rule that prohibits disclosure or discussion of such matters, or that could be reasonably understood as prohibiting such disclosure or discussions, violates the Act. Similarly, a broad rule which prohibits discussion of “personnel” or “employee” information (such as employee names, addresses), without further clarification would be found to unlawfully restrict employee communications.

The GC notes that broad prohibitions against disclosure of “confidential” information are lawful as long as they do not reference employees or what would reasonably be considered terms and conditions of employment. This is because an employer has a substantial and legitimate interest in maintaining the privacy of certain business information. A confidentiality rule will also be found lawful if, given the context, if it would not reasonably be read to prohibit activity protected by Section 7 of the Act.

Work rules regarding behavior and conduct toward the company and supervisors

Employers should review their rules governing employee behavior and conduct towards the company and its supervisors and management. Employees have a right under the Act to criticize or protest and employer's labor and human

resources policies and the employer's treatment of employees. Absent sufficient clarification or context, the General Counsel frowns upon rules that prohibit employees from engaging in “disrespectful,” “negative,” “inappropriate,” or “rude” conduct towards the employer or management. For instance, the Board found a rule unlawfully overbroad where it stated “Be respectful to the company, other employees, customers, partners, and competitors.” In contrast, where the rule requires that the employee be respectful of customers, competitors, etc., but does not mention the company or its management or supervisors, employees reasonably could not believe that the rule prohibits protected criticism of the employer. Thus, the following rule was found lawful: “No rudeness or unprofessional behavior toward a customer, or anyone in contact with” the company. Employers should ensure that the context and language of employee behavior rule towards the company does not prohibit protected criticism.

Rules regulating conduct towards fellow employees

Employees have a right under the Act to debate and argue with each other about unions, the company, and their terms and conditions of employment. While these discussions can become contentious and heated, the Supreme Court has noted that the communications do not lose their protection under the Act because they involve “intemperate, abusive, and inaccurate statements.” Thus, vague and overbroad rules, in the absence context or clarification, will be found unlawful. For example, “do not send ‘unwanted, offensive, or inappropriate’ emails” was found lawfully vague and overbroad. In contrast, a rule prohibiting “threatening, intimidating, coercing, or otherwise interfering with the job performance of fellow employees...” was found to be lawful.

Rules regarding employee interaction with third parties

While employers have a right to lawfully control who makes official statements to news media or government agencies, on behalf of the company, an employer must be

careful that their work rules are not construed as prohibiting employees from speaking to the media, government agencies, or third parties (such as unions) on their own (the employees') behalf. This is because employees have a Section 7 right to communicate with news organizations, government agencies, and third parties about their wages, hours, and other terms and conditions of employment.

Rules regarding use of company logos, copyrights and trademarks

While employers have a clear interest in protecting intellectual property, the Board will generally find unlawful a broad ban on employees' non-commercial use of a name, logo, or other mark to identify an employer in a labor dispute. The Board takes the position that employees have a right to use the name and logo or other trademark on picket signs, leaflets, and other protest material.

Rules restricting photography and recording

Employees have a Section 7 right to photograph and make recordings in furtherance of union and protected, concerted activity, such as recording health and safety violations. Rules totally banning such recording, or the use or possession of personal devices during non-working time, will be found overbroad and violative of Section 7. Rules regulating recording and photography will be found lawful if appropriately limited in terms of scope, such as rules designed to preserve patient privacy, proprietary processes, or business records.

Rules restricting employees from leaving work

Rules that regulate when employees can leave work are unlawful if the employees reasonably would read them to forbid protected strikes and walkouts. If such a rule makes no mention of strikes, walkouts, or work stoppages, the employees will reasonably understand that the rule pertains to leaving work unrelated to protected, concerted activity or union activity, and as such, the rule will found to be lawful. Thus, while

see **NLRB CHARGES** page 14

Credentialed training for manufacturers plays vital role in revitalizing the economy

In 2015 the Brookings Institute published a report citing that manufacturing makes up more than half of the country's advanced industries sector, and this sector is viewed as central to the revitalization of the nation's economy. Industries like manufacturing are seen as rescuers to the economy because of their promises of high wages and significant growth potential. In fact, the sector's average earnings increased nearly five times as fast as earnings in other sectors since 1975. The report further echoes a commonly heard trend that while jobs are available in the sector, there are not enough skilled workers to fill them.

Today's manufacturers must quickly adapt new technologies in order to remain competitive and create the sophisticated products needed in the modern world. The industry now relies on workers who can adeptly run and maintain highly technical equipment. Finding those skilled workers to fill new jobs and replace outgoing workers remains a confounding challenge for many manufacturers.

The truth about the skills gap in manufacturing

According to 2012 data, there were 600,000 unfilled jobs at U.S. manufacturers and 30,000 of these in the state of Illinois. A recent survey of manufacturers indicated that 74 percent of them named the 'lack of skilled workers' as a significant challenge.

While there are not enough skilled workers to fill the job openings manufacturers have now, the impending retirement of many Baby Boomers who work in manufacturing is about to create a perfect storm. Projections indicate that 2.7 million Baby Boomers will retire from manu-

facturing jobs by 2025, and economic growth during that period will create 700,000 additional manufacturing jobs. Focusing on a single manufacturing field can illustrate the immensity of the problem: 57 percent of Illinois tool and dye makers are over 49 years old, therefore nearing retirement age. Without an adequate pipeline of skilled workers to take their place, the industry will certainly face a crisis in the years to come.

The impact of this situation on a single manufacturer can be devastating, because some companies are facing losing a large percentage of their workforce at one time. Unfilled jobs result in reduced productivity, burnout of overworked

staff, and other negative consequences. While some medium-sized and large manufacturing companies once had the resources to train incumbent workers and new hires, in-house training programs are costly, and some were eliminated during the economic downturn.

Despite the data and case studies, some have questioned whether a skills gap is to blame for unfilled positions, or whether it is truly due to other factors, namely, the lack of desire of potential workers to work in manufacturing, or the wages and benefits offered. With all eyes on the manufacturing sector because of its promise for the economy, manufac-

see [TRAINING](#) page 14



Diana Peters is Executive Director of Symbol Training Institute, www.symboltraining.edu, a for-profit vocational school opened in 2005. Symbol provides hands on training for both incumbent and dislocated workers. Peters is a national advocate for narrowing the skill and gender gaps in manufacturing, and she recently launched a nonprofit organization, Manufacturing NEXT, www.manufacturingnext.org to address these issues.

NLRB CHARGES

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“walking off the job” is an unlawful work rule, a rule prohibiting “entering or leaving company property without permission” was considered lawful.

Conflict of interest rules

Section 7 affords employees the right to protest in front of the company, to organize a boycott, or solicit union support to improve their terms and conditions of employment. If the employer's conflict of interest policy could reasonably be read to prohibit such activities, the rule will be found unlawful.

However, where the rule makes it clear that it is designed to protect legitimate, protectable business interests, the rule will be found lawful. Thus, a rule which states that employees may not engage in “any action” that is “not in the best interest of the (employer) will be found unlawful. However, a rule which prohibited the giving or offering of anything of value, such as “gifts” or “services” to any business that provides service to the company, was deemed lawful.

Conclusion

In light of the expected surge in union organizing activity, spring cleaning of the workplace is in order. A good place to start this cleaning is with a thorough review

of your employee handbook. Prudent employers will ensure that their handbook is not only legally compliant with EEO, Wage & Hour, and other state and federal employment laws, but also that it is a clean document under the law of the National Labor Relations Act. This is because organized labor will aggressively file legal charges alleging violations with as many legal agencies as possible, seeking to wear the employer down. Often times, employers have failed to adequately review their policies towards withstanding scrutiny from the federal agency whose mission is to promote collective bargaining, and which prosecutes employers gratis on behalf of unions and employees -- the NLRB. ■

TRAINING

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turers are working together across sectors more than ever to address their challenges and begin to fill the pipeline with skilled workers. Certification training programs specifically geared to the manufacturing industry have emerged as a positive solution to this problem.

How credential based training is filling the gap

The Brookings report specifically outlined that advanced industries like manufacturing could benefit from “improving the availability of skilled workers by developing smart, industry led, sector-specific, regional skills initiatives. Overall, firms need to get much more involved in developing the skills pipeline and the

public sector must become much more responsive to their needs.” (Brookings, 2015 p.9).

Recently the federal government has made skills training programs for pipeline careers like those in manufacturing a priority by allocating significant resources to them. As a result, manufacturers can benefit from training programs for job candidates that are either partially or fully subsidized. Individual job seekers, whether new to the market or displaced, can use a variety of online tools to explore career pathways, identify jobs that use their transferable skills, and explore training and credentials required or recommended in their chosen fields.

Credential-based training can take many forms. According to the U.S. Department of Labor, the range of different types of credentials includes:

1. Educational diplomas, certificates and degrees

2. Registered apprenticeship certificates
3. Occupational licenses (typically awarded by State government agencies)
4. Personnel certifications from industry or professional associations
5. Other skill certificates for specific skill sets or competencies within one or more industries or occupations

Whether a credential is valued depends on factors including industry-recognition, stackability, portability and accreditation.

Attention to credential based training reached a fever pitch in 2011, when President Obama announced an initiative to credential 500,000 manufacturing workers with industry-recognized certifications and cited The Manufacturing Institute's NAM-Endorsed Skills

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Women training for careers in manufacturing

While women make up nearly half of the labor force, they make up just 24 percent of the manufacturing labor force. Today there are more women in the Illinois workforce than ever before, yet they remain the largest segment of the population that is relatively untapped by manufacturers. The perception exists that there is a gender bias that excludes women from pursuing and succeeding in manufacturing. There is a great need to combat manufacturing as a male-favored culture.

Providers of manufacturing skills training are engaging students in credential programs from non-traditional groups including women. With the help of some government and philanthropically funded programs, training providers are removing barriers for women by providing supportive services like transportation and child care, peer-to-peer mentoring, and offering training programs at flexible times, allowing for women to earn a manufacturing credential while working at another job or caring for their families.

Nonprofit organizations have been established in Illinois to address the urgent need to close the gap between manufacturing employers' needs and workers' skills. Women in Manufacturing, a national nonprofit organization formed in 2011, is working to combat antiquated perceptions of the industry and promote manufacturing as a viable career path for women. It unveiled a survey at its 2014 conference in Schaumburg, Illinois which revealed that 82 percent of women in the field felt that manufacturing offers both challenging and interesting work for women. ■

Six ways manufacturers can reduce industrial energy costs

How much of the energy you pay for each month is actually used to power your plant? It could be less than half, with the rest escaping through leaky air compressors, inefficient equipment and other energy hogs.

Our country wastes more energy than any other nation, including China. In 2013, the United States had an energy efficiency of just 42 percent, meaning 58 percent of all the energy we produce goes to waste.

The industrial sector, which includes manufacturing, agriculture, construction and mining, accounts for nearly one third of all U.S. energy usage. Manufacturing facilities alone are responsible for spending \$200 billion every year to power facilities and waste nearly 30 percent of that energy. This all adds up to a lot of unnecessary energy costs.

To make your manufacturing facility more energy efficient and less expensive to run, here are six ways to reduce industrial energy costs on your production floor.

1. Develop an energy management team

One of the primary reasons energy and cost-saving initiatives fail is because it's unclear whose responsibility it is to manage the undertaking. Develop an energy management team by pulling a representative from each department. Bring in those who already have an incentive to keep costs low, or build in a bonus that can be tied to the amount of energy the team saves. Together, they can work to monitor energy usage throughout the facility and implement ways to reduce waste.

2. Conduct an energy audit

Energy audits can be performed in-house using an energy audit guidebook and assistance from facility experts. However, we recom-

mend facilities seek professional help from an energy specialist. A useful energy audit will quantify how much energy each department is consuming and will help identify peak consumption times throughout the year. It should also offer recommendations on which energy efficiency upgrades will bring the best return on investment.

3. Strategically schedule machinery use

Using the intelligence collected from your facility energy audit, consider which machinery requires the most energy to run. If possible, schedule operation of these machines outside of peak hours. Peak hours can constitute up to 30 percent of a manufacturing facilities monthly utility bill.

4. Schedule Shut-Downs and Start-Ups

Scheduled production floor shut downs where all machinery is powered off for a length of time (during the weekend or off-shift periods) can substantially lower industrial energy cost. To know when to schedule these shut downs, you'll need visibility into peak operational hours. Likewise, powering up all machinery at once can create a large spike in your facilities energy demand. Production floors should stagger equipment start-up to reduce this spike.

5. Optimize Air Compressors

Industrial air compressors are to blame for huge amounts of energy consumption and waste. Some are
*see **ENERGY COSTS** page 24*



Constellation is the preferred energy provider for IMA members. For more information, visit www.constellation.com/IMA. Or, you may contact Constellation's Richard Cialabrini at 888-312-1563 or email Richard.cialabrini@exeloncorp.com. Author: Keith Poli, Constellation.

Nuclear Powers Illinois

By Constellation

The State of Illinois has the opportunity to make positive energy policy decisions this year that will affect the future of reliable, affordable and low-carbon energy in the state for decades to come. Among those decisions is whether to fully value nuclear energy plants in the state, allowing them to remain in operation through the end of their useful lives. Currently, three of the state's six plants are at risk for premature closure. Read on to learn more about the issue and what you can do to ensure Illinois continues to have a reliable, affordable and clean energy supply.

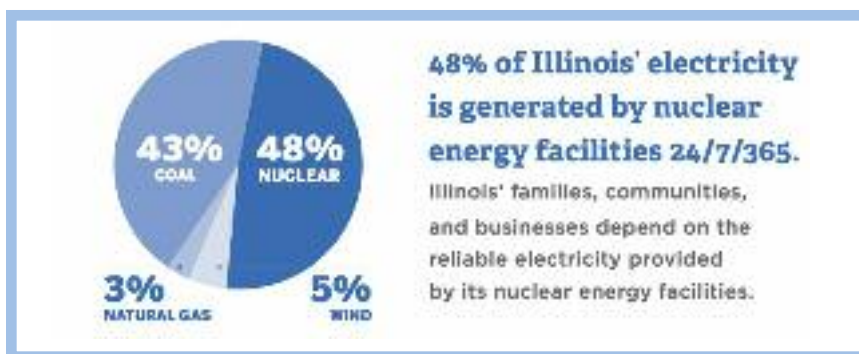
Background and benefits of nuclear energy

Illinois' six state-of-the-art nuclear facilities provide huge energy, economic and environmental benefits to Illinois families and businesses. These facilities inject nearly \$9 billion directly into the Illinois economy annually, and provide nearly 28,000 direct and indirect jobs in Illinois, according to a study from the Nuclear Energy Institute. They also contribute \$290 million annually in state and local taxes, funding schools, community services and state agencies. Altogether, they are an integral part of their communities and the state's economy.



of Illinois' carbon-free power produced by nuclear energy facilities.

Nuclear energy is also the most reliable source of energy in Illinois. The state's nuclear facilities set the world standard for reliable operations during all seasons and weather conditions. Given that Illinoisans live in a state with extreme weather — from brutally hot summer days to wicked winters — it's critical that the state has nuclear power in its energy mix, meeting demand and keeping the lights on. Perhaps no one understands the importance of a reliable, predictable energy supply



more than those running the state's manufacturing facilities.

The Illinois nuclear plants produce enough round-the-clock electricity to serve more than seven million Illinois residents. All told, they generate 48 percent — nearly half — of the state's electricity supply and 90 percent of Illinois' carbon-free energy. The carbon-free power supplied by nuclear energy is particularly important given that by 2016, Illinois must comply with new carbon emission rules set by the U.S. EPA, which require a 33 percent reduction by 2030.

Thanks in part to the state's nuclear fleet, Illinois is a net exporter of electricity, in much the same way that it is a net exporter of corn, soybeans, machine tools and coal. The ability to be a net exporter of electricity is a testament to the efficiency and low cost of these generating resources.

Despite all of these clear benefits, outdated energy policies threaten the continued operation of three of Illinois' nuclear facilities — the Byron, Clinton and Quad Cities plants.

Illinois is not alone in facing this issue, and some nuclear plants around the country have already begun to close due to market conditions similar to those in Illinois. Recently, the Vermont Yankee facility and the Kewaunee facility in Wisconsin closed, yet both of these plants were operating efficiently and at reasonable cost. In the case of the Vermont Yankee closure, Forbes reported that consumers in the surrounding area saw their electricity rates go up this winter by 37 percent in Massachusetts, and by 50 percent in New Hampshire, in part due to the plant's closure. The closure of the Kewaunee plant in

Wisconsin cost its host county 15 percent of its jobs and 30 percent of its tax revenue. The cause for closure in each case was that their electricity markets — like Illinois' markets — do not properly value the always-on reliability, fuel diversity, carbon-free power and other important attributes of nuclear power.

Last year, recognizing the potential costs to Illinois if some of these plants close, policymakers in Illinois directed four state agencies — the Illinois Commerce Commission, Illinois Power Agency, Illinois Environmental Protection Agency, and the Illinois Department of Commerce and Economic Opportunity — to assess the potential impact of the early closure of Illinois' nuclear energy plants. The resulting report, titled "Potential Nuclear Power Plant Closings In Illinois: Impacts and Market-Based Solutions," was issued in January and found that if the three most challenged facilities close, it could have devastating costs for the state, including:

- \$1.8 billion every year in lost economic activity,
- Nearly 8,000 highly skilled jobs lost,
- Up to \$500 million annually in higher energy costs statewide, according to a PJM analysis,
- \$1.1 billion per year due to

increases in carbon and other pollutants, and

- Hundreds of millions of dollars to construct new transmission lines.

The report succinctly states that, "Illinois' continued economic success depends on maintaining low and stable electricity prices — and those low and stable prices depend on the continued operation of all nuclear generating stations located in Illinois."

This analysis placed a compelling spotlight on the substantial economic, environmental and reliability benefits of Illinois' nuclear plants, and further established that the challenges facing these plants are a matter of immediate and statewide concern that must be addressed. Further highlighting what's at stake, PJM, the regional transmission grid operator for northern Illinois, came close to experiencing rolling blackouts during 2014's polar vortex and found that Illinois system would be "unreliable" under all premature plant closure scenarios.

The solution: Illinois' low carbon portfolio standard

The report recommended several potential market-based policy solutions for Illinois to consider in order to avoid premature nuclear plant closures and the negative impacts they would have on the state and its residents. Among those was a proposed Low Carbon Portfolio Standard.

Following that recommendation, legislation has been introduced in both the Illinois House and Senate (House Bill 3293 and Senate Bill 1585) that would create a Low Carbon Portfolio Standard (LCPS). This legislation would help preserve the state's existing low carbon energy sources, including nuclear energy.

Beginning in 2016, the LCPS
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would require ComEd and Ameren to obtain low carbon energy credits to match an amount equal to 70 percent of the electricity flowing on their distribution systems. Low carbon energy sources under this legislation include solar, wind, hydro, nuclear, tidal, wave and clean coal. Importantly, the legislation is technology-neutral, which means all generators of zero or low carbon energy would be able to compete in the procurement process.

The legislation includes consumer protections such as a price cap to limit the consumer impact to a 2.015 percent annual increase over 2009 retail prices, or about \$2 per month for the average Illinois residential electricity customer (less than would occur if some of Illinois' nuclear plants were to close early). In addition, the legislation includes a separate customer rebate provision that would provide a direct bill credit to customers in the event wholesale prices exceed a specified level. This type of customer protection does not exist under other

clean energy programs.

The LCPS is also important for the state given the EPA's call for state-level reductions in carbon emissions from existing power plants. The closure of Illinois' nuclear facilities will result in significant increases in carbon and other pollutants and will make it difficult for Illinois to comply with these new rules. The LCPS in Illinois would act, at a minimum, as a bridge solution that would facilitate further policy actions that may be required for compliance by the State of Illinois.

Myth versus fact

The costs of allowing the three at-risk plants to close early are far greater than the costs of the LCPS. In fact, the costs are as much as 12 times greater than the maximum cost of the legislation when considering increased wholesale power prices, transmission costs, adverse economic impacts and adverse environmental impacts.

Some have also incorrectly argued that because the plants' parent company, Exelon, as a whole is profitable, legislation isn't needed to keep these plants open. Much like a retail business with multiple stores, every location has to make money on its own. No retail chain could

survive for long using profitable stores to keep unprofitable ones open, just as Exelon cannot operate Plant A at a loss simply because Plant B is earning a profit.

Other opponents have said that Illinois should take no action during this legislative session due to proposed changes at the federal level that could support nuclear facilities. While there is both a regulatory proceeding and agency consideration of environmental rules at the federal level that

could better recognize these nuclear facilities' superior reliability and their carbon-free energy production, the fact is that such recognition does not currently exist and the resolution of those matters is far from certain. This uncertainty points back to, not away from, action by the Illinois General Assembly. Federal action also does not solve for the underlying policy flaws in Illinois.

There are a variety of other myths being pushed by opponents of the legislation — all of which can be easily discredited. When considering all of the facts, it's clear that this is an issue that impacts the entire state and that Illinois cannot afford to lose any of its nuclear facilities. The LCPS is the best policy solution to help prevent that possible outcome and would also position the State of Illinois to meet future energy and environmental goals.

Take action: Say YES to the LCPS

While the LCPS has strong bipartisan support, it remains unclear if the General Assembly will implement this important policy. Legislators and Governor Rauner need to hear from their constituents, particularly those in the business community, on this important issue. Remaining competitive in our respective industries requires a reliable, affordable energy supply in Illinois.

Exelon launched the Nuclear Powers Illinois campaign to educate policymakers and the public about the current state of nuclear energy in Illinois and what is at stake if plants close early. There are several easy ways to get involved and support the effort:

1. Send a letter to your local state legislators, as well as to Illinois' legislative leaders and the governor in support of the legislation.
2. Sign the Change.org petition in support of the LCPS.
3. Visit NuclearPowersIllinois.com to learn more about the issue, get the facts, find recent news coverage, and sign up for email updates.
4. Follow Nuclear Powers Illinois on Facebook and Twitter.
5. Print out this short summary of the issues to help spread the word to your colleagues and employees.

For more information, visit Constellation at energy.constellation.com/ima. ■

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ABOUT WHY NUCLEAR POWER IS ESSENTIAL TO ILLINOIS' ECONOMY AND ENVIRONMENT

ILLINOIS NUCLEAR ENERGY FACILITIES:

- Provide:** almost half of Illinois' electricity and 90% of Illinois' carbon-free electricity
- Generate:** nearly \$9 billion of economic output statewide annually
- Employ:** 5,500 workers and support 25,700 additional Illinois jobs
- Operate:** 24/7/365 and provide an always-on source of carbon-free electricity

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GUEST COLUMN BY Illinois Secretary of State Jesse White



April was National Donate Life Month. I spent some time attending events throughout Illinois to encourage donation, and many organizations are working together to promote donor awareness throughout the state.

This year we are teaming up with community colleges, hospitals, libraries and other interested institutions statewide to promote the life-saving importance of organ and tissue donation and to host donor drives.

In addition, we are making a concerted effort this year to team up with Illinois manufacturers interested in hosting donor drives or allowing a speaker from my office to give a presentation about dona-

tion. Last year we partnered with nearly 20 different Illinois manufacturers throughout the state to promote organ and tissue donation. I would like to increase this number in 2015. **Companies interested in setting up an event this year are encouraged to call my Organ and Tissue Donor Department at 800-210-2106.** We want to work with you.

My goal as Illinois Secretary of State is to encourage everyone to become a donor by joining the Secretary of State's Organ and Tissue Donor Registry. It takes very little time and one donor can save or greatly improve up to 25 lives. The men and women who sign up for this lifesaving program can potentially improve the quality of life for those in need of transplantation.

Currently, there are more than 5.7 million people registered to become organ/tissue donors in Illinois. However, more than 5,000

are on the waiting list and about 300 people die each year waiting for an organ transplant.

Television and radio commercials aired in English and Spanish statewide throughout the month of April. They were also shown on approximately 400 movie screens across the state.

Illinoisans can register with the Secretary of State Organ/Tissue Donor Program by visiting LifeGoesOn.com, mailing in a donor registration card, calling our hotline at 800-210-2106 or visiting their local Driver Services facility.

I urge everyone to take a moment to register to become an organ and tissue donor. We can all help and potentially provide those on the waiting list with a second chance at life. ■






Life

LifeGoesOn.com

Goes On

Be an organ/tissue donor

Jesse White • Secretary of State

Protecting Your Company from Cyber Attacks — What You Need to Know Now

The risk of a cyber security breach is significant, and here to stay. All indications in the legal community point towards escalating, and not decreasing risks. The evidence is compelling that a breach can significantly impact a company in terms of lost reputation, cost, and lost business. It is therefore critical that a company take the appropriate steps to evaluate and mitigate the relevant risks, and to develop an action plan in the event of a breach. Addressing cyber security risks is not an event but, rather, an ongoing process that must be embraced at all levels of a company. Fortunately, there are steps that a company can — and should — take to minimize the potential for a security breach or system shut down.

This article is the first in a two-part series that will address what a company needs to know concerning cyber security and cyber risks, and will provide guidance for what a company can do now, to lessen the likelihood that a breach will occur. Part two, which will be published in the summer edition of *The Illinois Manufacturer*, will address issues that a company should consider and steps it should take in the event of a cyber security breach.

Cyber Attacks in the News

No company is immune from a potential cyber event, whether inadvertent or intentional, at the hands of a third party. News of cyber attacks has, unfortunately, become commonplace, and such attacks have impacted organizations large and small, including Sony, Home Depot, Target, the National Security Agency, and others.

For example, in November, 2014, Sony was infiltrated by a cyber attack that cost the company an estimated \$15 million dollars.¹

Hackers obtained approximately 100 terabytes² of stolen data, including salary information, confidential contracts from ongoing projects, unreleased motion picture films, damaging emails from Sony executives discussing various celebrities, as well as employee files and medical records. The hack resulted in the unauthorized release and download of films, as well as an electronic standstill for several weeks, during which time employees were unable to use their computers, phones, or email addresses.

In 2013, Target was breached when hackers infiltrated the company's security and payment system by installing malware that was designed to steal credit card information when a credit card was scanned at any one of the company's 1,797 U.S. stores.³

Additionally, many of the credit card strips (which contained cardholders' personal and account information) were sold to make counterfeit cards,⁴ resulting in a continued threat to Target consumers' credit. The breach compromised up to 40 million credit cards and as many as 70 million names, email services, and phone numbers, and is reported to have cost banks and credit unions more than \$200 million.⁵

More recently, in January of this year, hackers infiltrated Anthem, Inc., a health insurance company, and gained access to information involving potentially 80 million Americans. Anthem failed to encrypt large volumes of personal information which, according to some experts, suggests that Anthem was

see **CYBER ATTACKS** page 24



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Certification System as a national solution.

The Skills Certification System vetted credential programs in an attempt to simplify the system and ensure the endorsed credential programs were uniformly responsive to the industry's needs.

The credentialing partners in the System include:

- ACT
- The American Welding Society
- The Manufacturing Skill Standards Council
- The National Institute of Metalworking Skills
- The Society of Manufacturing Engineers
- International Society of Automation (ISA)
- National Center for Construction Education and Research (NCCER)
- North American Die Casting Association (NADCA)
- Fabricators & Manufacturers Association, International (FMA)
- International Fluid Power Society (IFPS)
- Packaging Machinery Manufacturing Institute (PMMI)
- American Society for Quality (ASQ)
- American Society of Transportation and Logistics (ASTL)
- Association for Operations Management (APICS)

Credential-based training allows manufacturers to employ both entry-level and incumbent workers who have demonstrated the knowledge and skills increasingly needed in the technology-intensive advanced man-

ufacturing jobs of the 21st century. It provides an objective measure on which employers can rate potential employees' skills that are precisely tied to the technical requirements of the job opening. Stackability of credentials can help employers better define career paths for their employees, which has been shown to reduce costly turnover and increase employee satisfaction. When manufacturing employers hire credentialed candidates they can be confident that they will maintain the quality production and efficient operations. Despite these benefits, only seven percent of available manufacturing jobs identified a specific certification requirement.

The realities of credential training and manufacturers

Regardless of their promise for helping to solve the manufacturing skills gap, credential training is not yet being fully embraced by manufacturing employers. This is due to a variety of factors including a still fragmented credentialing system and sparse data on the return-on-investment. But based on the increased attention it is receiving from government, trade associations, and private philanthropy, and the progress in coordinating efforts across the sectors, it is becoming apparent that credential based training is here to stay. Siemens, a global manufacturer of electronics, has embraced credential training and reports benefits including work-ready technical workers and cost savings.

Incorporating credentials into recruitment and hiring practices

Manufacturers considering incorporating credential training in their hiring practices should start by

reviewing the Manufacturing Skills Certification System. The system outlines the basic skills required for entry-level work a wide variety of manufacturing settings. The skills certifications address personal effectiveness competencies, foundational academic competencies (including entry-level science, technology, engineering and math (STEM) skills), general workplace skills and industry-wide technical skills. The depictions of the career pathways and stackable credentials are available at http://institute.nam.org/page/edu_workforce_skills_cert_implementation.

These certifications dovetail with the Advanced Manufacturing Competency Model framework, developed in collaboration with the Employment and Training Administration along with industry, education, and labor partners. The model is co-sponsored by the Manufacturing Institute, the National Council for Advanced Manufacturing, and the Society of Manufacturing Engineers. The competency model is available within the CareerOneStop Competency Model Clearinghouse, at: www.careeronestop.org/competencymodel/pyramid.aspx?HG=Y.

Careful review of these tools should reveal which credentials make the most sense for a particular job opening. Next, manufacturers should get engaged with credential training providers to help fill their pipeline for skilled workers and to help training providers to best meet the real-world needs of manufacturers. ■

According to author Diana Peters, the Symbol Training Institute evolved out of Symbol Tool, Inc., a tool and die machine shop established in 1985. Symbol provides hands on training for both incumbent and dislocated workers on computer numerical control (CNC) machines and Quality Control (QC) and has locations in Skokie and Addison. Symbol Training Institute was the leader in the nation in NIMS credentials earned last year. Symbol is a dually accredited NIMS training provider and testing site along with MSSC testing sites at both locations. Peters is a national advocate for narrowing the skill and gender gaps in manufacturing, and she recently launched a nonprofit organization, Manufacturing NEXT, www.manufacturingnext.org to address these issues. ■



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Cyber liability insurance — Often overlooked, but very necessary

It seems like every day there is a new computer-hacking incident on the news. We have all heard about the Target breach, Sony, the E-Bay and Home Depot breaches. We hear about them because they involve huge corporations with familiar household names; and, because millions of unsuspecting customers had their personal information compromised. What we do not hear about, though, is the countless number of similar incidents that occur on a daily basis and that businesses of all sizes are being targeted.

In fact, according to a survey published by Hartford Insurance Companies, about half of all small to mid-size companies have already experienced a data breach. Conversely, in that same survey, 70 percent of small business owners (less than 50 employees) believed that a data breach would be 'unlikely'. Whereas these two findings seem to be contradictory, they point to the fact that these breaches are occurring regularly and that, despite this alarming data, many businesses are choosing to ignore this significant and growing exposure.

Information published by the Ponemon Institute, an independent cyber security research firm, found that the average cost and damage to a company resulting from a data breach is \$3,500,000. To complicate matters further, the US District Court (New Jersey) recently held that the Federal Trade Commission can proceed with a suit against a company for 'lax security' and failing to safeguard consumer's personal information. Granted, more litigation is sure to follow, but all signs are pointing to the need for companies to take this matter very seriously. Failing to take a proactive approach to cyber

security can have a crippling effect on an organizations financial stability and public reputation.

As technology becomes increasingly important for successful business operations, the value of a strong cyber liability insurance policy will only continue to grow as well. The continued rise in the amount of information stored and transferred electronically has resulted in a remarkable increase in the potential exposures facing businesses. In an age where a stolen laptop or hacked account can instantly compromise the personal data of thousands of customers, or an ill-advised post on a social media site can be read by hundreds in a matter of minutes, protecting yourself from cyber liability is just as important as some of the more traditional

exposures businesses account for in their general commercial liability policies.

Why Cyber Liability Insurance?

A traditional business liability policy is unlikely to protect against most cyber exposures. Standard commercial policies are written to insure against injury or physical loss and will do little, if anything, to shield you from electronic damages and the associated costs they may incur. Exposures are vast, ranging from the content you put on your website to stored customer data. Awareness of the potential cyber liabilities your company faces is essential to managing risk through proper coverage.

see **INSURANCE** page 29



Jerry Orpen, ARM is a Senior Vice President with Manufacturer's Insurance Services of Illinois, located in Naperville. Manufacturers Insurance Services of Illinois, including MIS-360, is a benefits, risk analysis and key business resources affinity program of the Illinois Manufacturers' Association. Visit www.mis-360.com, email info@mis-360.com or call 630-485-5882.

ENERGY COSTS

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poorly designed, while others are improperly maintained. Altogether, air compressors account for up to \$3.2 billion in wasted energy costs annually in the U.S.

In fact, just one leak can cost your business \$500 or more per year. If you have multiple leaks, your air compressors are practically siphoning money right out of your operations budget.

6. Conduct an HVAC system audit

HVAC systems are responsible for maintaining air quality and comfort

on a production floor. They're also responsible for nearly 52 percent of a building's total energy consumption. Many variables dictate how efficiently an HVAC system performs, including system design, method of operation and maintenance.

To ensure your facility is getting the most from its HVAC system, conduct an HVAC audit. Based on the findings, take the time to conduct maintenance or consider upgrading the system.

Here are three ways to make your HVAC system more efficient:

- Install a programmable thermostat (which can reduce consumption by as much as 15 percent)

- Invest in a demand-controlled ventilation (DCV) system, which regulates outdoor air intake based on a facility's concentration of carbon dioxide due to the number of staff inside.
- In some cases, the simple repair and insulation of ducting is enough to reduce HVAC energy consumption by 30-percent.

Constellation, the Illinois Manufacturers' Association's endorsed energy supplier, works with commercial and industrial companies of all sizes to help them identify opportunities to reduce consumption and lower costs. ■

CYBER ATTACKS

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simply too lax when it came to cyber security. The investigation reveals that it took Anthem six weeks or more to discover the breach, which allowed hackers to obtain highly sensitive personal information including names, social security numbers, dates of birth, e-mail addresses and more.⁶ The financial impact of the hack remains to be seen.⁷

This is just a small sample of notable data breaches, the frequency of which is growing. What is even more compelling is that these companies are responsible corporate citizens, and their cyber events aptly reflect that no business is immune from the emerging risks of corporate cyber terrorism.

The Ponemon Reports: How Cyber Attacks Impact Business

In 2013, the Ponemon Institute published its report of an independent study that evaluated more than 3,500 IT security practitioners in eight countries, including the United States.⁸ The 2013 report highlights exactly why preventing cyber attacks must be a key area of concern for all businesses. For example, the 2013 Ponemon report states that, while the severity and frequency of data breaches has increased, many companies lack the proper funding, tools, and personnel to identify and lessen the likelihood of such breaches.

The 2013 Ponemon report high-

lights all of the areas that can be impacted by a data breach including a loss of reputation, time and productivity, as well as lost customers' loyalty. The financial impact of a data breach includes the cost of evaluation and notification; out-of-pocket expenses to prevent damage to the victims of a breach; the payment of regulatory fines; lost revenues; the costs of outside counsel and consultants; as well as litigation expenses, if a lawsuit is filed. The 2013 report further indicates that, in the United States, it takes a company an average of 92 days to recover from a non-malicious breach, and almost 125 days to recover from a malicious or intentional breach. For those companies that have experienced a breach, the most significant post-breach change was the development and implementation of an incident response plan as well as an incident response team.

More recently, in May of 2014, the Ponemon Institute released its ninth annual *Cost of Data Breach Study: Global Analysis*.⁹ This study evaluated 314 companies from 10 different countries, including the United States. The 2014 Ponemon report indicates that, while significant data breaches do result from human error or system glitches, most attacks resulted from malicious or criminal attacks. According to the 2014 Ponemon report, some of the notable factors that impact the cost of a loss include the timeliness of a breach notification, the engagement of consultants, whether or not a third party was involved in the breach, as well as whether or not

the breach involved a lost or stolen device containing proprietary information. Not surprisingly, research shows that those companies that have developed an incident response plan and that have a strong security posture will incur lower costs in the event of a breach. Of the countries that were evaluated, organizations located in the United States sustained the largest number of breached records.

The 2014 report further reveals that, in the United States, the average cost of a non-malicious data breach is \$195 per record, and the average cost of a malicious or criminal attack is \$246 per record. In the United States, companies are (for the most part) legally required to notify victims of a data breach, and the average notification cost exceeds \$500,000. The average cost of business lost by a U.S. company following a breach exceeded a staggering \$3.3 million. The report establishes that the potential risks of the loss of reputation, diminished goodwill, as well as abnormal customer turnover are clear and present.

The Current Regulatory Landscape

To date, there is no comprehensive federal law regulating a company's responsibilities or duties with respect to cyber security. Rather, the current legal framework is a complex web of federal and state regulations that govern certain aspects of cyber security. In light of potentially applicable federal, state, and other regulations, full compliance involves not only knowledge of current laws but also an

see **CYBER ATTACKS** page 28

Philippi-Hagenbuch, Inc.'s Danette Swank honored in 3rd STEP Awards for Excellence in Manufacturing

The Manufacturing Institute awarded Danette Swank, president, Philippi-Hagenbuch, Inc., with the Women in Manufacturing STEP (Science, Technology, Engineering and Production) Award on Thursday, March 26, 2015.

"Being an honoree at the 3rd annual STEP Ahead Awards was such a wonderful experience" said Danette Swank. "To be in the midst of 129 other female manufacturing professionals was very inspiring. It opened my eyes to the ways I can help others in my community and the industries I'm involved in to be aware of the many solid career paths manufacturing can take someone. I am truly grateful for this opportunity and honor."

"These 130 women are the faces of exciting careers in manufacturing," said Jennifer McNelly, president, The Manufacturing Institute. "We chose to honor these women because they each made significant achievements in manufacturing through positive impact on their company and the industry as a whole. The STEP Awards are part of the larger STEP Ahead initiative, launched to examine and promote the role of women in the manufacturing industry through recognition, research, and leadership for attracting, advancing, and retaining strong female talent."

A recent survey from Deloitte and The Manufacturing Institute found that 80 percent of American manufacturing companies have a moderate to severe shortage of available, qualified workers, which is echoed by Swank.

On March 26, The Manufacturing Institute recognized 130 recipients of the STEP Awards at a reception in Washington, D.C. The STEP Awards program highlighted each Honoree's story, including their leadership and accomplishments in manufacturing.



Greg Baise, IMA president & CEO (left), recently testified before the Senate Judiciary Committee on the need for reform of the Illinois workers' compensation system. Baise noted that Illinois has the 7th highest cost of workers' compensation in the United States and is a major detriment to job creation and capital investment. Also testifying were Keith Hermann, executive director of the Illinois Self-Insurers' Association (middle) and Steve Hoekstra of Hoekstra Trucking (right)



Union Pacific plans to invest \$119 million in its Illinois rail infrastructure

Investments enhance community safety and railroad efficiency

Union Pacific plans to invest \$119 million in 2015 to improve Illinois' transportation infrastructure. The company's multi-million dollar private investment will enhance employee, community and customer safety and increase rail operating efficiency. Freight railroads like Union Pacific operate on track built and maintained without taxpayer funds. Union Pacific's private investments sustain jobs and ensure the company meets growing demand for products used in the resurgent American economy.

Union Pacific's planned investment covers a range of initiatives: nearly \$105 million to maintain railroad track, \$5 million to enhance signal systems and \$9 million to maintain or replace bridges in the state.

This year's planned \$119 million capital expenditure in Illinois is part of an ongoing investment strategy. From 2010 to 2014 Union Pacific invested more than \$840 million strengthening Illinois' transportation infrastructure.

Union Pacific plans to spend \$4.2 billion across its network this year, following investments totaling more than \$31 billion from 2005-2014. These investments contributed to a 38 percent decrease in derailments over the last 10 years.

One of America's most recognized companies, Union Pacific Railroad connects 23 states in the

western two-thirds of the country by rail, providing a critical link in the global supply chain. From 2005-2014, Union Pacific invested more than \$31 billion in its network and operations to support America's transportation infrastructure. Union Pacific is an IMA member company.



Tyson Foods strives to eliminate human antibiotics from broiler chicken flocks by 2017

Forms working groups to address antibiotic use in cattle, hog and turkey production

Tyson Foods, Inc., is striving to eliminate the use of human antibiotics from its U.S. broiler chicken flocks by the end of September 2017. Tyson Foods has already stopped using all antibiotics in its 35 broiler hatcheries, requires a veterinary prescription for antibiotics used on broiler farms and has reduced human antibiotics used to treat broiler chickens by more than 80 percent since 2011.

"Antibiotic resistant infections are a global health concern," said Donnie Smith, president and CEO of Tyson Foods. "We're confident our meat and poultry products are safe, but want to do our part to responsibly reduce human antibiotics on the farm so these medicines can continue working when they're needed to treat illness."

"Given the progress we've already made reducing antibiotics in our broilers, we believe it's realistic to shoot for zero by the end of our 2017 fiscal year. But we won't jeopardize animal well-being just to get

there. We'll use the best available treatments to keep our chickens healthy, under veterinary supervision," Smith said.

Tyson Foods plans to work with food industry, government, veterinary, public health and academic communities, and provide funding, to accelerate research into disease prevention and antibiotic alternatives on the farm. The company is also getting input from its Animal Well-Being Advisory Panel, which is made up of independent advisors.

Tyson Foods, Inc., with headquarters in Springdale, Arkansas, is one of the world's largest producers of chicken, beef, pork and prepared foods that include leading brands such as Tyson®, Jimmy Dean®, Hillshire Farm®, Sara Lee® frozen desserts, Ball Park®, Wright®, Aidells® and State Fair®. The company was founded in 1935 by John W. Tyson, whose family has continued to lead the business with his son, Don Tyson, guiding the company for many years and grandson, John H. Tyson, serving as the current chairman of the board of directors. Tyson Foods, Inc., is an IMA member company.



North American Corporation tailors manufacturing offerings with "Three Legged Stool"



Quality. Throughput. Up time. Direct materials cost. These are the core performance indicators in any durable manufacturing environment. For years, Fortune 500 manufacturers have relied on North American for facility supplies, marketing supply chain services and packaging supplies and equipment, delivering mission critical needs that keep them operating 24/7, 365 days a year. What we have learned over the past 90 years is that customers want

ease of doing business and we have met those needs by supplying consumables, equipment and service with one quick phone call.

The new and exciting "Three Legged Stool" approach gives the consumer the option to meet all their supply chain needs with ease and flexibility. The approach is a game changer in the manufacturing segment, where North American Corporation can assist in keeping production lines up and running, lower inventory levels, customize cost savings solutions and offer reliable packaging equipment. We provide expertise that goes Beyond the Product to our customers to identify improvement opportunities, both process efficiencies and cost-savings, specific to their situation. We then implement strategies and supply programs that drive bottom-line results. Each of our programs is unique to the clients we service, will you be the next to benefit?

To learn more about North American Corporation, please visit us at www.na.com or contact Holly Falcaro at 847-832-4407. North American Corporation is an IMA member company.



Governor Rauner appoints Sylvia Wetzel to the Illinois Workforce Investment Board

Governor Bruce Rauner recently announced appointments to several boards. Upon the recommendation of the Illinois Manufacturers' Association, Governor Rauner appointed Sylvia Wetzel of Bison Gear and Engineering to the Illinois Workforce Investment Board. She brings 35 years of experience in marketing and business development to the position.

Wetzel is currently the Vice President of Human Capital and Corporate Wellness at Bison Gear and Engineering. She works to develop the company's workforce through education and policy at her company and by advocating for manufacturing careers with the general public. Prior to that she was the

Executive Director of Eastgate Manor Assisted/Supportive Living, and transformed the organization in 90 days by turning losses into profits. She has also worked for AT&T Network Systems. Wetzel is a graduate of Judson College, earning her bachelor's degree in business management and leadership. She lives in Elgin.



Midwest Environmental Compliance Conference — Sponsorship opportunities Chicago Marriott O'Hare — October 29-30, 2015

The Midwest Environmental Compliance Conference (MECC) takes a fresh, regional approach to the increasingly difficult task of environmental compliance, permitting, enforcement, and other critical environmental issues that impact Midwest facilities and institutions. The MECC is proudly hosted by all six state manufacturing associations, including the Illinois Manufacturers' Association, and supported by Region 5 EPA, and includes the participation of all six state environmental agencies.

This conference experience and dialogue is designed for regulated entities and those charged with the important task of environmental compliance.

MECC focuses on regional issues — recognizing that environmental media simply do not respect state lines. Sessions focus on major developments in federal and state permitting, compliance, rulemaking, stan-

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dards, decisive case law, and enforcement priorities in Air, Water, and Hazardous Waste.

MECC is partnering with six statewide manufacturing associations, corporate sponsors, environmental service providers, and, of course, federal and state environmental regulatory agencies. Our approach brings together a diverse Midwestern crowd to address key compliance issues with a fresh, regional perspective.

You are invited to join MECC now as a key sponsor to take advantage of every stage of their promotional strategy.

For more information and details on sponsorship opportunities available, contact Roger Walker, 573-415-7699, rwalker@rawalkerassociates.com, or Deirdre (DK) Hirner, 217-414-8138, dkhirner@gmail.com.



Diageo again named one of "Best Places To Work In Illinois"

Diageo, a global leader in beverage alcohol, has been selected as one of the 2015 Best Places to Work in Illinois. Nearly a decade old, this prestigious statewide survey and award program was designed to identify and honor the best places of employment across the state of Illinois, benefiting the state's economy, workforce and businesses. This is the second year in a row that Diageo has been recognized as a Best Place to Work in Illinois.

Diageo's Plainfield location is home to the company's largest bottling facility in North America, and the region's brand technical facility which helps to turn new liquid and packaging ideas into commercial products. The site is also the primary manufacturing location for Diageo's range of Smirnoff brands. It has played a key role in the Illinois community for many years and seen a number of expansions and upgrades since its opening in 1966, including a recently-completed \$120 million enhancement.

"We're in the celebration business, and we firmly believe our workplace should reflect that," said Mark Laven, VP Operations at Diageo's Plainfield site. "To be rec-

ognized for the second year in a row as a Best Place to Work is an honor we don't take lightly. We remain committed to our employees and to supporting a culture that is engaging, nurturing and inspiring."

Diageo offers its employees a range of benefits, including recognition and rewards for effort and performance; product and brand giveaways; educational activities about the company's collection of world-leading brands; and events supporting a range of community, environmental and well-being initiatives.

In the last year alone, the site has supported its annual United Way and Toys for Tots programs, a site-wide weight-loss and fitness challenge, and an Earth Day environmental competition, among other initiatives. Plainfield employees also band together to raise funds for the Movember movement, the American Cancer Society, and the Plainfield Harvest, a 5K race with proceeds going to local charities. Diageo's Plainfield facility has a number of employees with over 35 years of service, whose contributions are recognized at celebrations with the site's senior management.

Diageo has been named one of the Best Places to Work in Illinois in the large employer category.

IMA member Diageo is a global leader in beverage alcohol with an outstanding collection of brands across spirits, beer and wine categories. For more information about Diageo, visit us at www.diageo.com. Visit Diageo's global responsible drinking resource, www.DRINKiQ.com, for information, initiatives, and ways to share best practices.



Record Turnout for IMA's 2015 Business Day

More than four hundred business leaders converged in Springfield this May to take advantage of a fresh, new political dynamic under the State House dome created by the election of Republican Governor Bruce Rauner. For the first time in more than a decade, Democrats do not control both the executive and legislative branches of government

forcing both sides of the political aisle to work together on the challenges facing Illinois.

Governor Bruce Rauner attended and spoke at the opening reception for the IMA Board of Directors on Tuesday night outlining key tenets of his Turnaround Agenda including workers' compensation reform, empowerment zones, infrastructure, and local property tax freezes. Manufacturers were charged by the Governor with the task of talking to local lawmakers and urging their support for these major reforms.

During the lunch program, manufacturers heard from two competing voices at the Capitol. Senate President John Cullerton (D-Chicago) kicked off the luncheon by noting that the Governor and lawmakers need to first focus on passing a balanced budget. He stated that several components of the Governor's budget including pension reform will not pass the General Assembly and survive court scrutiny before the start of the state's fiscal year on July 1. Senator Cullerton also spoke about nearly \$700 million in reduced medical costs for state employees that are currently contained in the budget but are still subject to ongoing union negotiations.

House Republican Leader Jim Durkin (R-Burr Ridge) spoke after lunch and thanked employers for investing and remaining in Illinois during challenging times. The Republican caucus is working in partnership with the IMA and other business groups to help get the state's economy back on track.

In the afternoon, House Speaker Michael J. Madigan (D-Chicago) met with IMA leaders. He outlined reforms of workers' compensation that passed in 2011 and indicated that he is keeping an open mind on future changes including a primary causation standard.

Senate Republican Leader Christine Radogno (R-Lemont) hosted manufacturing leaders in the afternoon and stressed that her caucus is prepared to make the tough votes necessary to balance the state's budget.



CYBER ATTACKS

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awareness of proposed legislation.

At the inception of his administration, President Obama initiated a cyberspace policy review, which involved a comprehensive, administration wide evaluation of cyber security issues. More recently, in January of this year, the Obama Administration sent three legislative proposals to Congress that would create a single federal breach notification standard (and potentially preempt the notification laws from 47 states as well as the District of Columbia).¹⁰ The proposal seeks to encourage the sharing of information concerning cyber threats between the private sector and the federal government, and to enhance law enforcement's ability to investigate and prosecute cyber crimes.

The vast majority of states have cybersecurity breach notification laws¹¹ that require, in many cases, private or government entities to notify individuals of security breaches that involve personally identifiable information.¹² For example, in Illinois, the Personal Information Protection Act (PIPA)¹³ requires private entities to disclose each and every breach of a computer system that contains the unencrypted personal information of an Illinois resident, even if the compromised business is not located in Illinois. Notifications must be made as expeditiously as possible, and without unreasonable delay following discovery or notification of the breach.

Other states have enacted similar notification statutes. There are currently only three states (Alabama, New Mexico and South Dakota) that have not enacted security breach laws. Given the current state of the law, it is critical that a company understand the notification statutes in all states in which it conducts business. Under the law, a single breach can potentially trigger legal obligations in a particular state, as well as beyond that state's borders.

Critical Steps a Company Can — and Should — Take Now

The data indicates that the risk of a cyber attack is one that simply

cannot be ignored. The question, then, is what steps can a company proactively take in order to minimize the risk of such an attack?

The necessary pre-breach action plan for every company must address several critical areas including technology, employee training, and other key business areas. On the technology side, a company must ensure that it has a sufficient firewall in place, and that it conducts regular penetration testing of that firewall. Moreover, malware or anti-virus software must be updated as necessary, over time. It is imperative that companies vigorously monitor for and incorporate available software updates from vendors. A company should also equip employees with the ability to encrypt sensitive documents and information, or provide other technological means by which to securely transfer sensitive information. A company's IT department should, as necessary and appropriate, update company personnel regarding security threats, and provide strategies for minimizing the risk posed by such threats.

It is also important to ensure that employees are properly trained, and that your company develops and maintains a culture of cyber awareness. For example, do your employees use adequate passwords on personal electronic devices that provide an appropriate degree of security? Do you have an employment policy for dealing with lost or misplaced devices, and are your employees aware (and reminded of) that policy? Are employees aware of the types of tricks that potential hackers use, and what an employee should do if he or she suspects a hack, or are signs of potential hacks simply ignored?

Employees should be required to acknowledge, in writing, his or her understanding of your company's commitment to preserving confidential information and the employee's obligation to maintain confidentiality. If your company utilizes a "Bring Your Own Device" or "BYOD" program, it is important to develop company policies concerning employee use of such devices.

A company should also evaluate the language in its business contracts, its own insurance coverage, as well as the insurance coverage of

those companies with which it conducts business, in order to ensure that it is adequately protected in the event of a cyber security breach. A company should also evaluate the sufficiency of cyber security protection utilized by current and future business partners.

A company should also develop an emergency response plan, and implement a team for handling breaches. Such a plan must include the identification of outside vendors that may be required in the event of a breach, as well as a plan for restoring business operations as soon as possible. It is also important that your company's general counsel is involved in this area, and that your company develops a pre-breach as well as a post-breach process to protect communications and information with the attorney-client privilege and, when possible, the attorney work product doctrine. Indeed, effective risk management starts with proof that a company's risk management system is, to the extent possible, state of the art.

Conclusion

Under the law, a company is not required to guarantee that a security breach will never occur, but a company must take steps to adopt and implement reasonable business practices. In light of changes to the relevant laws and regulations, as well as the evolution of technology and hacking techniques, what constitutes a reasonable business practice has changed, and will continue to change, over time. For this reason, it is critically important that a company develop, implement and update its cyber security policies and procedures on an ongoing basis. ■

References

1. Sony FY 2014 Q3 Financial Statements, (www.sony.net/SonyInfo/IR/library/er.html) (Released March 17, 2015); *Sony Pictures Hack Has Cost the Company Only \$15 Million So Far*, Steven Musil (Feb. 4, 2015), (www.cnet.com/news/sony-pictures-hack-to-cost-the-company-only-15-million/).
2. For context, the entire printed collection of the United States Library of Congress would only fill 10 ter-

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INSURANCE

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Possible exposures covered by a typical cyber liability policy may include:

- **Data breaches** — Increased government regulations have placed more responsibility on companies to protect clients' personal information. In the event of a breach, notification of the affected parties is now required by law. This will add to costs that will also include security fixes, identity theft protection for the affected and protection from possible legal action. While companies operating online are at a heightened risk, even companies that don't transmit personal data over the internet, but still store it in electronic form, could be susceptible to breaches through data lost to unauthorized employee access or hardware theft.
- **Intellectual property rights** — Your company's online presence, whether it be through a corporate website, blogs or social media, opens you up to some of the same exposures faced by publishers. This can include libel, copyright or trademark infringement and defamation, among other things.

- **Damages to a third-party system** — If an email sent from your server has a virus that crashes the system of a customer, or the software your company distributes fails, resulting in a loss for a third party, you could be held liable for the damages.
- **System failure** — A natural disaster, malicious activity or fire could all cause physical damages that could result in data or code loss. While the physical damages to your system hardware would be covered under your existing business liability policy, data or code loss due to the incident would not be.
- **Cyber extortion** — Hackers can hijack websites, networks and stored data, denying access to you or your customers. They often demand money to restore your systems to working order. This can cause a temporary loss of revenue plus generate costs associated with paying the hacker's demands or rebuilding if damage is done.
- **Business interruption** — If your primary business operations require the use of computer systems, a disaster that cripples your ability to transmit data could cause you, or a third party that depends on your services, to lose potential revenue. From a server failure to a data breach, such an

incident can affect your day-to-day operations. Time and resources that normally would have gone elsewhere will need to be directed towards the problem, which could result in further losses. This is especially important as denial of service attacks by hackers have been on the rise. Such attacks block access to certain websites by either rerouting traffic to a different site or overloading an organizations server.

It is important to discuss your cyber security needs with your management team, IT specialist and insurance vendor. As mentioned earlier, 85 percent of small companies do not think they will be the target of an attack; but yet, almost half of all small to mid-size companies have already experienced a breach. The facts bear-out that this is a very real threat to business owners and the time to prepare is before an attack. Please contact your local Manufacturer's Insurance Service of Illinois representative for a helpful list of Best Practices in regards to storing/handling information and to receive your no-obligation Cyber Liability proposal. ■

CYBER ATTACKS

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- abytes. (www.deadline.com/2014/12/sony-hack-timeline-any-pascal-the-interview-north-korea-1201325501/#).
3. See *Missed Alarms and 40 Million Stolen Credit Card Numbers: How Target Blew It*, Bloomberg Business, Michael Riley (Mar. 13, 2014) (www.bloomberg.com/bw/articles/2014-03-13/target-missed-alarms-in-epic-hack-of-credit-card-data).
 4. *Here's What Happened To Your Target Data That Was Hacked*, Business Insider, Natasha Bertrand (Oct. 20, 2014) (www.businessinsider.com/heres-what-happened-to-your-target-data-that-was-hacked-2014-10).
 5. *Target Hack Cost Banks and Credit Unions More than \$200 Million*,

- The Verge, Rich McCormick (Feb. 18, 2014) (www.theverge.com/2014/2/18/5424062/target-hack-cost-200-million-dollars-for-banks-and-credit-unions).
6. See Hiltzik, Michael of The Economy Hub. *Anthem is Warning Consumers About its Huge Data Breach. Here's a Translation*, published in the L.A Times (March 6, 2015).
 7. *Security Firm Finds Link Between China and Anthem Hack*, The Washington Post, Ellen Nakashima (Feb. 27, 2015) (www.washingtonpost.com/blogs/the-switch/wp/2015/02/27/security-firm-finds-link-between-china-and-anthem-hack).
 8. Ponemon Institute Research Report, *The Post Breach Boom*, Ponemon Institute (February 2013).
 9. Ponemon Institute Research Report, *2014 Cost of Data Breach Study: Global Analysis*, Ponemon Institute (May 2014).

10. See *Securing Cyberspace – President Obama Announces New Cybersecurity Legislative Proposal and Other Cybersecurity Efforts*, The White House Press Release (January 13, 2015) (www.whitehouse.gov/the-press-office/2015/01/13/securing-cyberspace-president-obama-announces-new-cybersecurity-legislat).
11. See Greenburg, Pam, *Security Breach Notification Laws* (January 12, 2015), (www.ncsl.org/research/telecommunications-and-information-technology/security-breach-notification-laws.aspx).
12. The Senate is currently considering passing a uniform federal cybersecurity breach law that would preempt these laws in an effort to reduce costs and enhance consumer protection. (See www.commerce.senate.gov/public/index.cfm?p=Hearings (transcripts of March 19, 2015 hearing)).
13. 815 ILCS 530/1 et seq.

New IMA members

AMERICAN CONTROL ELECTRONICS

South Beloit

BREAKTHROUGH TECHNOLOGIES

Evanston

BROTHER INTERNATIONAL CORPORATION

Bridgewater, NJ

CEF INDUSTRIES, LLC

Addison

DELPHI EXPRESS, INC.

Chicago

DEVRY, INC.

Oakbrook Terrace

DUPONT NUTRITION & HEALTH

Gibson City

EY

Chicago

FLEX-N-GATE PLASTICS

Danville

FLEX-O-GLASS, INC.

Chicago

FREEDMAN SEATING COMPANY

Chicago

FRITO-LAY

Plano, TX

G & D INTEGRATED

Morton

HANLEY INDUSTRIES, INC.

Alton

HIGHLAND MACHINE

Highland

HOFFER PLASTICS CORPORATION

South Elgin

THE HORTON GROUP

Orland Park

ILLINOIS PRESS ASSOCIATION

Springfield

INDUSTRIAL PHARMACEUTICAL RESOURCES, INC.

Bartlett

INTERDYN BMI

Chicago

JOHNSON & QUIN, INC.

Niles

LAKE REGION MEDICAL

Wheeling

LUVU, INC.

Schaumburg

MID-STATES SCREW CORPORATION

Rockford

NESTLE USA/BEVERAGE DIVISION

Jacksonville

NOVARTIS PHARMACEUTICALS CORPORATION

Deerfield

NRG ENERGY, INC.

Princeton, NJ

PAL HEALTH TECHNOLOGIES, INC.

Pekin

PALTECH ENTERPRISES, INC.

Belvidere

PEORIA DISPOSAL COMPANY

Peoria

SWEBCO MANUFACTURING, INC.

Machesney Park

TERRASOURCE GLOBAL

Belleville

TH FOODS, INC.

Loves Park

TRI-PART SCREW PRODUCTS

Machesney Park

US SILICA COMPANY

Ottawa

VONCO PRODUCTS, INC.

Lake Villa

2015 Calendar of events

July 7-8, 2015

Walmart "Made in the USA" Open Call and U.S. Manufacturing Summit

Walmart corporate offices, Bentonville, Arkansas.

For more information, visit

[http://news.walmart.com/events/](http://news.walmart.com/events/2015-us-manufacturing-summit)

2015-us-manufacturing-summit

August 1-3, 2015

MEDICAL FAIR CHENNAI – Chennai, India

Medical Fair Chennai is India's premier hospital equipment expo. This trade show will provide Illinois companies with an opportunity to showcase their products and services to professionals from around the globe. For more information visit <http://www.medical.in/>

August 11-13, 2015

AQUATECH 2015 — New Delhi, India

India's leading water technology event, Aquatech 2015 will showcase the latest products and innovations. For more information visit www.aquatech-trade.com/india/Pages/homepage.aspx

September 1-4, 2015

AUSTRALIAN INTERNATIONAL MINING EXHIBITION (AIMEX) — Sydney, Australia

As Australia is Illinois' fifth largest export market, this Australian Mining Exhibition offers an excellent environment for Illinois companies to develop potential partnerships and business opportunities. For more information visit <http://www.aimex.com.au/>

September 17, 2015

IMA Breakfast Briefing: Workers Compensation Negotiation Strategies

Mon Ami Gabi Restaurant, Oak Brook, 8:00-10:30 am — presented by Bryce Downey & Lenkov LLC

October 29-30, 2015

Midwest Environmental Compliance Conference with EPA Region 5 Regulators

Chicago Marriott O'Hare — For more information, visit <http://meconference.com>

December 4, 2015

IMA Annual Luncheon, Chicago

Visit <http://www.ima-net.org/calendar-of-events> for information, pricing, registration, etc., related to all IMA events.

For more information on IMA events, contact Kimberly McNamara at kmcnamara@ima-net.org, 800-875-4462, ext. 9371

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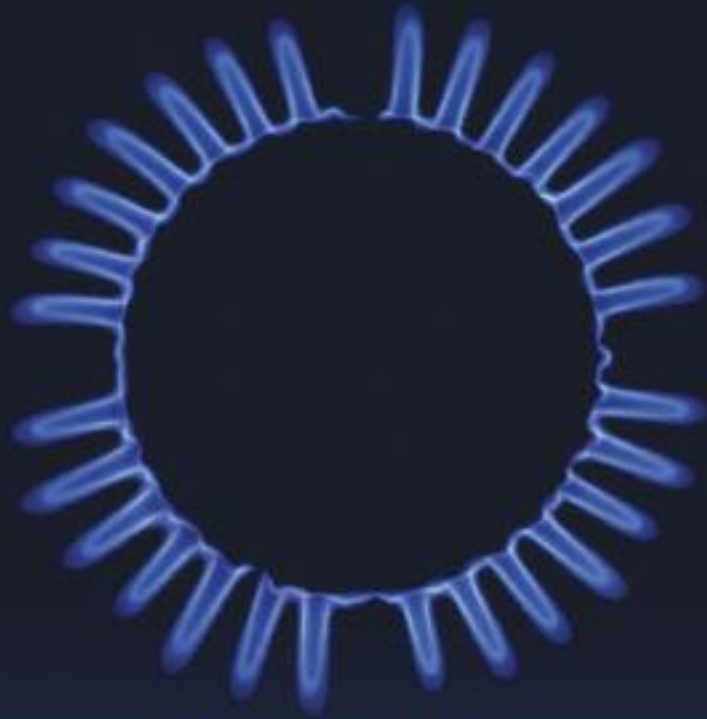


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