

Insulation Contractors Report

A PUBLICATION OF THE INSULATION CONTRACTORS ASSOCIATION OF AMERICA

JULY/AUGUST 2022

Why Should You Attend ICAA?

To Explore the Floor

Our Trade Show floor is packed with booths from the best in the business. Top insulation manufacturers & distributors bringing their newest & most innovative products & services – who are waiting to do business directly with you.




To Learn from Experts

Our Educational Sessions are led by dynamic, professional speakers and are designed to inform, support, and protect you in every aspect of your business.



To Nurture New & Old Connections



Whether it's over Bloody Marys at breakfast, beers in the lobby bar, on the busy trade show floor, or in the bright sunshine on the links, ICAA offers endless opportunities to network and negotiate. Every year we bring the industry together to connect, share, and discover what's new. 

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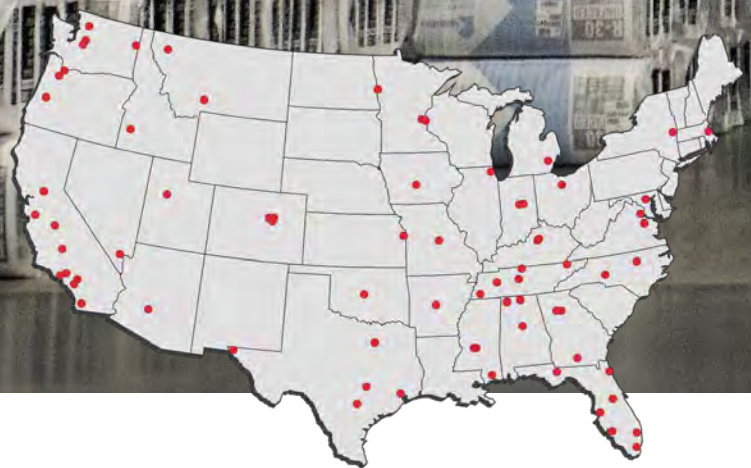
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ICAA Convention & Trade Show

Mark Gieseke, ICAA President
Email: mark@insulate.org



Let's get right into it... if you're still on the fence about attending the annual ICAA Convention & Trade Show this year in Phoenix, let me give you a little push – you should. And I'll give you three reasons why: *connections, connections, connections*. Let me explain.

Product & Service Connections.

You know that old adage, “anyone who is anyone will be there”...? As far as the insulation industry goes, this applies at ICAA. The trade show floor, as I'm writing this, has sold out completely. It is packed with not only our industry's leading manufacturers and distributors, but also the smaller, just as stellar companies offering the best of their products and services. It really is a one-stop shop. It would take months – years, even – and a lot of airline miles to visit all these vendors on your own. But at ICAA, just walk in the exhibit hall doors and there they are, waiting for you.

Practical & Business Connections.

ICAA has built a schedule that allows attendees maximum time on the trade show floor without having to skip a single educational session, making it a win/win for all aspects of your business. Our programming is always focused on helping you build a solid, successful, and sustainable business. This year's sessions provide timely, relevant support when it comes to keeping your employees, strategizing on your marketing, protecting yourself from lawsuits, and dealing with those sometimes troublesome and tricky contract clauses (see page 7 for a preview of this session). We will also host a group discussion where industry colleagues can share ideas and applications that have worked best – and maybe share warnings about a few things that haven't worked at all. I guarantee you will leave

If you're still on the fence about attending the annual ICAA Convention & Trade Show this year in Phoenix, let me give you a little push – you should.

ICAA with ideas and advice you will be able to immediately implement to see results.

Network & Nurture New & Old Connections.

As businesspeople, we know you cannot underestimate the importance of networking. Whether it's negotiating an order over breakfast or closing a deal on the putting green, the truth is sometimes business works best when it doesn't feel like work. At ICAA there are plenty of chances to nurture industry connections and make new ones. It's often easy to get lost in the shuffle at a bigger event. ICAA is small enough that you know you'll get the one-on-one time you need, but also big enough that you know you'll always see something or someone new. Combine that with a beautiful, relaxing venue and a schedule that gives you time to see and do it all, and there you have it: ICAA is the perfect place to find what you need to succeed in our industry.

You should be ready to hop down off that fence now. Registration is easy and online at www.insulate.org/icaa2022. Remember – if you're a contractor, for each registration, you'll get an additional registration for just \$195.

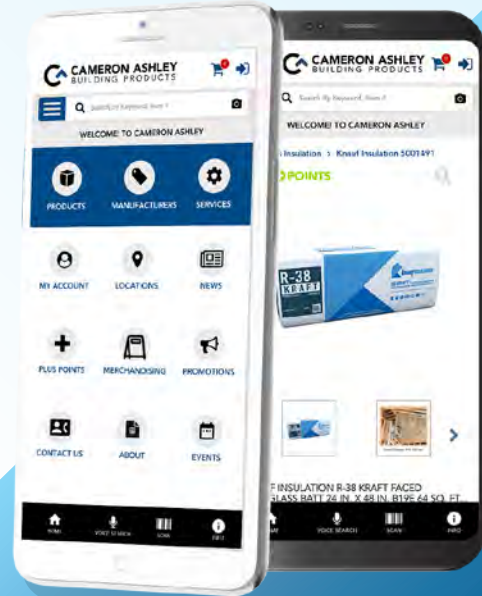
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SPOTLIGHT: Andrew Goldberg, CertainTeed Vice President & General Manager – Insulation

Andrew has worked for CertainTeed for over 22 years and currently runs the company's Insulation business.



Andrew Goldberg

Tell us about CertainTeed's new INSULPURE fiberglass insulation – what improvements does it bring to installers' work and how does it benefit the environment?

INSULPURE was created from the voice of our customers. We heard that we needed to develop a fiberglass insulation to address the everyday installation challenges and comfort concerns expressed by contractors across the country. Insulation contractors want a product that is less dusty and provides great thermal and mechanical properties. They want a product that offers a healthier experience for both them and the homeowner. This led us to manufacture a product that offers these benefits, and also continues to meet our sustainability goals as a company, while "Making the World a Better Home." We were laser focused on making sure INSULPURE was formaldehyde-free, and met the installation expectations of our customers. From those fundamental discussions and our corporate goals, INSULPURE was born. The feedback we have received thus far has been fantastic.

What new products are being introduced at CertainTeed?

We will be launching another new portable blowing machine in early July. Very few people



realize that we are the only company who manufactures both blown-in insulation and a full line of blowing machines, vacuums, and accessories. We recently refreshed the look of our machines and updated our website to enhance the customer experience. I am highly confident that our unique position in this space will lead to some very exciting innovations in the short and long term, with some great benefits to our customers.

In relation to our fiberglass batts and rolls, our bigger focus has been on increasing our production to meet the heightened demand of our customers and also on launching INSULPURE.

What opportunities do you see facing the building insulation industry?

In the short term, keeping up with demand has been a challenge for most, if not all, companies. The last few years have presented all of us with many different complications ranging from Covid to raw materials to a changing labor force and beyond. Adding capacity is not an action that can happen overnight, so we have been working very hard on building an operational culture founded on the principles of continuous improvement. I believe we have a good opportunity to continue to increase capacity through operational efficiency gains.

From a long-term perspective, I am very bullish on the fiberglass insulation market. Each and every day, more and more companies are focusing on building their own ESG (environmental, sustainability, and corporate

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Spotlight: Andrew Goldberg, CertainTeed, Vice President & General Manager – Insulation


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governance) culture. As our full set of customers and vendors across the value chain strive to meet the growing need for lightweight and sustainable construction, I believe this positions fiberglass insulation as an ideal solution and a core component in construction practices, especially as we all embark on the path to carbon neutrality. With that said, all manufacturers will have challenges ahead as they examine and work through their own sustainability roadmaps.

Is CertainTeed expanding its manufacturing capacity to meet the growing market demand for building insulation?

I think you may recall we announced back in November we had invested \$32 million in upgrades to our Chowchilla factory. That project completed in March 2022 and we are already starting to see increased capacity coming off the lines. Additionally, we have done some initial work in our Athens, GA plant as we prepare to increase our loose-fill capacity in the future.

What personal interests do you engage in?

I stole the great Vince Lombardi's mantra and modified it to fit me. I am all about the 4 F's. Faith, family, fiberglass, and football. After battling the challenges we face day in and out, nothing resets my perspective quite like a Sunday morning church service. When I am not on the road working with our plants or visiting customers, I try to spend as much time as I can with my family. I am lucky because I have a 4-year old granddaughter who lives five minutes down the road, so I get to enjoy spoiling her all the time. I have spent the entirety of my professional career with CertainTeed, so fellow employees and long-time customers are more like family to me. I can't tell you how many relationships I have built with customers and employees even after they move to another industry or retire. I joke with people that I bleed blue for CertainTeed, except for Sundays September through February when I bleed green for the Philadelphia Eagles. Most people know I am a diehard fan; I never miss a game. 



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What You Need to Know to Negotiate Funky* Contract Clauses

***Definition: not quite right, unconventional.**

Benjamin S. Lowenthal is an associate with Atlanta-based law firm Hendrick, Phillips, Salzman & Siegel and is a licensed lawyer in the states of Georgia and New York. Ben's practice includes representing contractors in a variety of construction-related



Benjamin Lowenthal

matters, including disputes involving delays, nonpayment, mechanic's liens, defective work, and other breach of contract claims. In addition, Ben's work includes preparing, reviewing, and negotiating construction contracts on behalf of subcontractors. Ben received his undergraduate B.S. from the University of Georgia and his J.D. and LL.M. in Environmental Law from the Elisabeth Haub School of Law at Pace University. For more information, contact the author at (404) 522-1410, bsl@hpsslaw.com or visit www.hpsslaw.com.

Construction contracting is a high-risk business, and the terms of construction contracts are only getting funkier. Insulators that do not recognize and understand the most important contract clauses can end up exposed, hurt, and not being able to get paid for the good work that they perform. However, when insulators can discern the most important contract clauses, they will not only survive but be able to negotiate favorable terms that will protect them in all of their construction projects.

I will be going over these funky, important contract clauses that insulators need to know at the 2022 ICAA Convention and Trade Show in Phoenix, AZ on Friday, September 23. However, I want to highlight two of the most important contract clauses now.

Indemnification Clauses

One of the funkiest, and arguably most important, clauses in a construction contract is the indemnification clause. Indemnity is an obligation by one party (indemnitor) to make another (indemnitee) whole for a loss incurred by the other party.

Also known as hold harmless agreements, indemnification provisions are designed to transfer some or all of an incurred liability from one party to another. Indemnification provisions are one of the most common tools that shift, or at least spread, risk on a construction project. There

are three types of indemnification provisions commonly found in construction contracts:

- ◆ **Broad indemnification.** The indemnitor agrees to indemnify the indemnitee for all claims, costs, losses, and damages resulting from either party's negligence, even the indemnitee's sole negligence.
- ◆ **Intermediate indemnification.** The indemnitor agrees to indemnify the indemnitee for all claims, costs, losses, and damages resulting from the indemnitor's own negligence, whether the indemnitor is solely or partially at fault.
- ◆ **Limited indemnification.** Where the indemnitor only agrees to indemnify the indemnitee if the indemnitee bears no responsibility for the claims, costs, losses, and damages.

So, what do insulators need to know about indemnification provisions? Insulators need to make sure that any contract with a GC or owner includes only a limited indemnification provision that limits their duty to indemnify a contractor (or other indemnitee) only to damages due to their own negligence. Here's an example of language that limits the indemnification provision to only your negligence, as taken from AIA Document A401 – 2017 Standard Form of Agreement Between Contractor and Subcontractor: "To the fullest extent permitted by law, the Subcontractor shall indemnify and hold harmless the Owner, Contractor...from and against claims, damages, losses, and expenses... arising out of or resulting from performance of the Subcontractor's Work under this Subcontract...**but only to the extent caused by the negligent acts or omissions of the Subcontractor...**"

It is vital that all insulators limit the indemnification provisions in all contracts to damages only caused by their own negligence. If not, insulators could be on the hook for any damages caused at a project, even if the damage was caused by another party and was not at all the fault of the insulator.

Force Majeure Clauses

With a funky name, force majeure is a French term that literally means "greater force." A force majeure clause allocates the risk of loss if

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IS HISTORY REPEATING ITSELF?



Gary Leasor
Leasor & Associates, LLC

My first exposure into the insulation contracting industry occurred in April 1979, when I was hired by Owens Corning to be a Customer Financial Services Supervisor for their insulation contractor customers. At the time, housing starts were 1.87 million, insulation was on allocation, and most of our insulation contractor customers were making record profits. Life was good for everyone.

What most people didn't realize was four years of Jimmy Carter's policies had created an inflationary spiral and by

1980, the Federal Funds Rate (the rate banks charge each other) was 20% and increased to 21% in 1981. In 1981 mortgage rates were 16.6%, prime bank rates were 21.5%, and housing starts were sliding rapidly to its 1.0 million level by 1982. A lead economist stated "the inflationary spiral was caused by rising oil prices, government overspending, and rising prices." Does that sound familiar to any of us? Note: I am not saying mortgage rates are going to 16.6%, but they are going up.

Meanwhile in the insulation contracting industry, everyone's life was turned upside down as housing starts declined by over 46% in less than a two-year period. My main discussions with insulation contractors in 1979 centered around buying more trucks/equipment and adding people since housing starts were going to 2 million starts. For the next three years afterwards, I traveled all over the country helping insulation contractors downsize



their businesses, working with banks to delay foreclosures, and trying to help sell boats and planes that had been accumulated during the good times. Summarized below is a very brief overview of the actions that are taken during a financial turnaround situation.

Get the Attention of Management Personnel

As the economic world is changing around you, it is critical that you instill the sense of urgency to your management team. One of the biggest problems I had on a turnaround situation is the complacency of the owner as well as the management team.

Focus on Improving Your Cashflow Position

The number one objective is to get the company to generate a positive cashflow. Here are some of the required actions:

Wring the cash out of all assets (per my previous articles)

- ◆ Focus on collecting the large past due receivables first.
- ◆ Eliminate slow moving/no moving inventory. Order "non-core" inventory from distributor.
- ◆ Eliminate all "non-working" fixed assets, even if you might need them next year.

Cutback expenses to reduce the cash outflow

- ◆ Eliminate all non-essential expenses by asking the "Want vs. Need" question.
- ◆ Stack rank all your employees by performance. I know you need more employees, but there will be a day when headcount reductions may be required.

Establish a short-term source of cash

- ◆ Establish a standby letter of credit emergency fund for payroll or taxes, if required. It is a lot more difficult to obtain financing when you actually need it.

Stop the Bleeding NOW

In a turnaround situation, the critical element is to stop the losses and eliminate the elements that are creating the losses. Again, here are some required actions:

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What You Need to Know to Negotiate Funky Contract Clauses


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performance is hindered, delayed, or prevented because of an event that the parties could not have anticipated or controlled. It provides a contractual defense, the scope and effect of which will depend on the express terms of a particular contract. These terms are at times negotiated and written, if the parties took the time to tailor the clause to their specific project, but they often are boilerplate.

So, what do insulators need to know about force majeure clauses? Try to make the force majeure clause project specific (think about local/project specific situations that might delay the project) and include broad language that states that you will not be responsible for damages caused by circumstances beyond your control. I have prepared specific force majeure clause language for insulators that all insulators to have in their contracts:

“INSULATION CONTRACTOR shall not be responsible for loss, damage or delay caused by circumstances beyond INSULATION CONTRACTOR’s control, including but not limited to acts of God, pandemics, epidemics, quarantines,

accidents, unavoidable casualties, snow, ice dams, fire, adverse weather, vandalism, regulation, strikes, jurisdictional disputes, disruption in supply chains, failure or delay of transportation, shortage of or inability to obtain materials or equipment or labor, changes in the Work and delays caused by others. If INSULATION CONTRACTOR is delayed in the commencement or prosecution of the Work for reasons beyond INSULATION CONTRACTOR’s control, including delays due to weather conditions, INSULATION CONTRACTOR shall be granted reasonable additional time sufficient to complete the Work and an equitable adjustment in the Contract Price if additional costs are incurred.”

To learn about additional funky and important contract clauses that all insulators need to know, come to my presentation at the 2022 ICAA Convention and Trade Show in Phoenix, AZ on Friday, September 23. I’ll be going over many more important contract terms as well as providing specific language for contract clauses that all insulators should be using in all of their contracts. I look forward to seeing you there. 



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Is History Repeating Itself?

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Analyze each segment of your business

- ◆ Define profitability as income less all direct expenses. Direct expenses include overhead expenses related to that segment such as payroll taxes, vehicle expenses, supplies, etc.
- ◆ Determine the inventory levels and fixed asset costs invested in each business segment.
- ◆ Close or sell business segments that are losing monies or offer limited opportunities. If the segment is a major part of your business, stop the losses or close the business.


Establish incentive pay structures that reward productivity and profitability

- ◆ Establish sales commission structures based on sales/profitability.

- ◆ Evaluate piece rate structure for production personnel.

Establish a “zero based” budget for the business

- ◆ A “zero based” budget is based on actual projected cost for each cost category rather than marking up or down last year’s cost.
- ◆ Review a comparison of actual costs to budget, each month, with your management team, and require a complete review of all large variances.

Based on the changes that are occurring in our economy, it may be time to review your business practices to insure maximum efficiencies. A financial turnaround is a very difficult and emotional task to perform. 

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Members who wish to contribute to the Toolbox Talks Video series should contact ICAA. ICAA accepts raw footage and provides editing and production services to create these useful, short videos enhancing safety in the workplace. 



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