

THE POOL CUE

Volume XI, Issue 4 October 2005

MICHIGAN COUNTY ROAD COMMISSION SELF-INSURANCE POOL

MCRCSIP MISSION STATEMENT

“The Mission of the Michigan County Road Commission Self-Insurance Pool is to administer a self-insurance program and to assist members with risk management efforts.”

MCRCSIP Board of Directors

At our annual membership meeting in July, Mike Roper from Otsego County Road Commission and Lonny Lutke from Missaukee County were re-elected to fill the northern positions for a three year term. Don Maronde from St. Clair County was re-elected to fill the At-large position for a three-year term. Chalmers McGreaham from Iron County was re-elected to fill the Upper Peninsula Region position for a two-year term of office.

Jeff Best from Kent County, Sharon Hice from Eaton County, Lou MacDonald from Chippewa County, Dorothy Pohl from Ionia County, and Karl Schmidt from Jackson County complete the nine-member Board. Sharon Hice was elected Board Chairman and Lonny Lutke Vice Chairman.

At our September meeting, Kenneth Rowe from Houghton County Road Commission was appointed to fill the Upper Peninsula position that became open August 31, 2005, with the resignation of Lou MacDonald.



MCRCSIP BOARD MEETING SCHEDULE

December 7-8, 2005	Bavarian Inn Frankenmuth
February 7-8, 2006	Garland Lewiston
March 7, 2006	Holiday Inn West Lansing
May 22-23, 2006	Mission Point Mackinaw Island
June 21-22, 2006	Holiday Inn Big Rapids
July 19-20, 2006 Annual Meeting	Soaring Eagle Resort Mt. Pleasant

Meetings are open to all members and are moved around the State in order to be as convenient and accessible as possible to those wishing to attend.

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Michigan Motor Vehicle Code Amendments Effective October 1, 2005



Michael R. Kluck
Michael R. Kluck & Associates

New provisions in the Michigan Motor Vehicle Code affecting commercial drivers took effect on October 1, 2005. In particular, these amendments impose a disqualification on CDL drivers who have been convicted of traffic offenses while operating a non-commercial motor vehicle (CMV) which result in their license being canceled, revoked, or suspended, or drivers convicted of committing drug- or alcohol-related offenses while driving a non-CMV. They also impose a disqualification on CDL drivers who have been convicted of driving a CMV after the driver's CDL was revoked, suspended, or canceled for violations while operating a CMV. Additionally, they impose a disqualification on CDL drivers who have been convicted of causing a fatality through the negligent or criminal operation of a CMV.

Disqualification for a first-time conviction of operating a non-CMV while being under the influence of alcohol or a controlled substance is one year. After a second conviction, disqualification is for life. Similar disqualifications are imposed for driving a CMV with a revoked, suspended, or canceled CDL, or causing a fatality through the negligent operation of a CMV, as well as other major offenses enumerated in the Code.

The revised Michigan Motor Vehicle Code calls for the Secretary of State to immediately suspend or revoke all vehicle group designations on the CDL of

a person upon receiving a notice of a conviction, bond forfeiture, or civil infraction determination of the person for a violation of Michigan law identical to those offenses outlined in the Federal Motor Carrier Safety Regulations as major offenses. An example of what this means is that CDL drivers will lose their CDLs for at least one year when they are convicted of driving under the influence of alcohol, even if the offense occurs while they are driving their own vehicles on their own time. They will not be able to ask for or receive a restricted license to drive a CMV for work purposes during the period of suspension.

With respect to serious traffic violations, such as excessive speed of 15 miles per hour over the posted limit or making improper or erratic lane changes, CDL drivers are automatically disqualified on a second offense occurring in a three-year period, but only if the offenses occur while the individual is operating a CMV. In such cases, the period of disqualification is 60 days for a second conviction and 120 days for a third or subsequent conviction. With regard to serious offenses occurring while a driver is operating a non-CMV, the driver will only be disqualified from operating a CMV for a second conviction occurring in a three-year period if the conviction results in the revocation, cancellation, or suspension of the CDL-holder's license or non-CMV driving privileges. This will usually only occur where the individual involved accumulates points in excess of those allowed under the Michigan Motor Vehicle Code, i.e., 12 or more points within a period of two years.

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CDL drivers who are convicted of violating a state or local law relating to motor vehicle traffic control (other than a parking violation) in any type of motor vehicle are required to notify their current employer of such conviction within 30 days after the date that the person has been convicted. The notification is required to be in writing. Further, each employee who has a driver's license suspended, revoked, or canceled, or who is otherwise disqualified from operating a CMV for any period, is required to notify his/her current employer of such suspension, revocation, cancellation, lost privilege, or disqualification before the end of the business day following the day the employee receives notice of the suspension, revocation, cancellation, lost privilege, or disqualification.



Assigned Claims (ACF)

The Assigned Claims Facility Fee (ACF) is an amount assessed by the State of Michigan to fund its Assigned Claims Plan. The "Plan" was established in 1973 under authority of the No-Fault Insurance Law to provide assistance to persons injured in motor vehicle accidents, and who have no insurance to pay the resulting medical bills. It is administered by the Department of State.

Since 2001, the ACF assessment has increased 56%, and your Board of Directors felt that our members should be aware of these steep increases. In 2001, the assessment was \$6.60 per vehicle; 2002 it was \$8.51; in 2003 it was \$8.54; and for 2004 the actual fee is \$10.80 per motor vehicle. Because we invoice in April (at the beginning of our coverage year), and the ACF fee is not determined until September of the year following, the rate used to prepare renewal invoices is estimated based on the most current information. For years prior to 2005, any difference between the estimated and actual fees was recovered through an adjustment to the next renewal's estimates.

A change in how we pass those fees along to our members was needed. Your April 2005 renewal invoice presented the 2005 estimated charge separate from the additional fee due for the final 2003 billing. We intend to continue to present those amounts separately.

Your Board of Directors wanted you to be aware of these increases in the fees required to fund the expenses of the Assigned Claims Facility. It is suggested that you contact your Congressman for additional information.

Loss Run Reports

September 2005 Loss Run Reports are available to all Member Managers on MCRCSIP's website, www.mcrcsip.org.

For more information, please call the Pool office at 800-842-4971.



Court of Appeals Limits Damages Recoverable From Road Commissions

Charles "Chip" Behler & Bill Henn
Smith Haughey Rice & Roegge

The Michigan Court of Appeals has recently issued several opinions addressing whether the term "bodily injury," which is used in both the highway and motor vehicle exceptions to governmental immunity, is a limitation on the type of damages that a plaintiff may recover. It is not uncommon, for example, for a plaintiff (or his or her spouse) to try to recover money for the alleged loss of household services, companionship, and loss of enjoyment of life suffered as a result of the injury. Recently, attorneys at Smith Haughey Rice & Roegge have argued on behalf of several Road Commissions that recovery for these types of injuries is barred by governmental immunity.

In one case, the Court of Appeals agreed with the Road Commission and concluded that claims seeking such damages are barred by governmental immunity. The Court reasoned that the immunity statutes permit recovery only for bodily injury, and that damages for non-bodily injuries, such as for loss of household services, companionship, etc., are precluded.

In a second case, a different panel of the Court of Appeals reached the same result, specifically adding that damages for "loss of enjoyment of life" are precluded by immunity. This case was not simply limited to a claim made by the plaintiff's spouse, but also made clear that even the injured plaintiff is

prevented from recovering for anything other than bodily injury as that term is commonly understood.

However, in a third case, the Court of Appeals concluded that if the plaintiff's claim involves wrongful death, then the plaintiff may recover any and all damages authorized by the Wrongful Death Act, regardless of any limitation in the immunity statutes. The damages expressly authorized by the Wrongful Death Act include "loss of society and companionship," which is clearly not a bodily injury. This third case, as an "unpublished" decision, is not binding on other panels of the Court of Appeals. To this extent, the issue is open to further discussion in the appellate courts. Attorneys for member Road Commissions will continue to present this argument, particularly because there are good reasons why suits brought under the Wrongful Death Act should be subject to the same limitations on damages as those that are not.

"WORKPLACE HOUSEKEEPING" A Guide to Preventing Accidents

Mike Shultz, Assistant Administrator
Loss Control/Training

How many times have you heard someone say, "Pick up after yourself, your mother doesn't work here!" Often they are making reference to poor housekeeping practices that impacts the safety and productivity of your organization.

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As part of the MCRCSIP loss control visit, we take the opportunity to review workplace housekeeping as it pertains to your valuable vehicles, equipment and facilities. We believe good housekeeping practices are an important element to an effective safety and risk management program. Generally, when a work environment is neat and tidy, accidents are minimal. When a work environment is cluttered and disorganized, employees often find it takes much more time to get the job done. Workplace housekeeping doesn't have to be a task that requires a lot of time and effort. Incorporated as part of each workday, it only requires just a few minutes of your time at the end of each job and/or work shift.

CLUTTERED AREAS: From time to time, we make reference to poor housekeeping as material and waste clutter. Clutter can be an accumulation of trash and miscellaneous items over time, that takes up valuable work space. Such items as boxes, old parts, empty containers, etc., can get scattered across the floor, along walls, workbenches and within truck cabs. Along with creating a slip, trip and fall hazard, clutter can create a variety of other hazards. For example, when certain fluids and lubricants are mixed with combustible materials, they could become ignited. Remember to keep an eye on how sparks can be generated (i.e. grinding) or when open flames (i.e. torches) are produced. Under certain circumstances, spontaneous combustion can occur. When a work area is cleaned up, don't allow the materials to sit in a wheelbarrow or in a pile in the

middle of the garage. Take time to remove the trash from the work environment into a designated dumpster.

PROPER STORAGE: Using proper storage shelves and cabinets can help eliminate workplace clutter and reduce the potential of a fire. Place properly identified flammable and combustibles into storage cabinets, away from sources of ignition. A portable fire extinguisher should be in close proximity just in case! Some products are best stored in flammable liquid storage cabinets. This includes gasoline, paint thinners, solvents, etc. Flammable liquid storage cabinets can be expensive to purchase, however, they are well worth the investment! Use them wisely!

CLEAN UP PROCEDURES: When taking the time to clean up a spill or just performing routine daily housekeeping, remember to protect yourself. Understand that some materials can soak into your skin, just like it soaks into a rag or other materials. Read the MSDS, use floor absorbent compound and always wear personal protective equipment (i.e. face and hand protection).

No one wants a personal injury or property damage accident. Taking a few minutes to address good housekeeping practices can generate many positive benefits including a safe work environment, increased productivity and pride in your work!

***Don't be afraid to take a big step if one is indicated.
You can't cross a chasm in two small jumps.***

David Lloyd George (1863-1945)
British Prime Minister

“HOLIDAY SAFETY”

Mike Shultz
MCRC SIP Assistant Administrator
Loss Control/Training

If you think we have lost our minds with an article about the upcoming holidays, take a close look at your calendar or visit your local department store. The holiday season is just around the corner and will be here before we know it!

Every year the holiday season can make your home a hectic place and fill your life with errands to run, presents to buy and people to visit. Just as there are safety rules and precautions to help you at work, there are also safety guidelines to help you through the holidays. We realize you wouldn't hang a danger sign beside your tree or wear personal protective equipment when you stoke the fire in the fireplace. However, as you're making your holiday lists, you can put safety at the top.

1. Christmas Trees - Christmas trees are one of the most popular traditions of the season – and one of the most dangerous. Whether you choose a living tree or an artificial one, safety should be a consideration. Here are a few things to look for when selecting a living tree.

- ✓ Freshness is the key! The best way to get a fresh tree is to cut it yourself. Some trees are cut several months earlier.
- ✓ If you must purchase a pre-cut tree, lift the tree and tap the trunk on the ground. Only a few needles should fall and the trunk should be sticky with sap. Grab a branch near the base and pull on it slowly to check for loose needles. If the needles bend but don't break, the tree is probably fresh.
- ✓ Keep the tree outdoors and cover the trunk in snow or water until you're ready to decorate.

- ✓ Cut a one or two inch diagonal slice off the bottom of the trunk. The new cut helps the tree absorb water preserving freshness.
- ✓ Use a sturdy tree stand that holds water. Keep it filled the entire time indoors.
- ✓ Keep the tree away from heat sources such as heat ducts, fireplaces, etc. Never place a tree in main traffic areas including door exits.
- ✓ Take the tree outside as soon as possible.

2. Holiday Lighting – It is very popular to place artificial lights on Christmas trees and on the home siding and windows. To help reduce the potential of electrical shock and fire, the following suggestions are provided.

- ✓ Use flame resistant artificial lights. Check the lights each year and discard those that show defects. Look closely at the wiring, sockets and bulbs. At the beginning of each season, place lights on a nonflammable surface and plug them in for 10 –15 minutes. Check for the smell of burning or visual smoke. If you question the lights, replace them. They are very affordable and not worth risking your home or your life.
- ✓ Never mix and match lights. Keep outdoor lights outdoors. Keep inside lights inside. Keep bulbs in all lighting sockets. Some lights have small fuses. Be aware that if the strand pops a fuse, there may be a good reason.
- ✓ Look for safety tested lights when purchasing. Look for UL approved.
- ✓ Avoid overloading outlets and extension cords.
- ✓ Follow the manufactures recommendation when using the lights. Avoid excessive strand connections.
- ✓ Never place cords in trip areas or under carpets/rugs, and take care when placing behind furniture, etc.
- ✓ Monitor pets and small children to ensure they have not entangled themselves or have bitten into lighting wiring.
- ✓ Always unplug lights when going to bed or leaving your home.

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3. Decorations – Decorations can add to the enjoyment and beauty of the holidays. Consider how safe your decorations are and remove items that could cause potential risks to your family, small children and pets. Ask yourself the following questions:

- ✓ Are fragile glass ornaments or ornaments which children could mistake as food or candy placed out of reach?
- ✓ Are you using older ornaments made with toxic materials such as lead based paint?
- ✓ Could items like tinsel placed on low tree branches present a swallowing or choking hazard to children and pets?
- ✓ Are some decorations made of metallic material and could they create an electrical shock hazard?

4. Other Fire Hazards – Although a fire can occur at any time around the home, the holiday season can increase that potential. Listed are a few suggestions:

- ✓ If you own a fireplace, know how to use it and maintain it. For example, never burn Christmas wrapping paper in a fireplace. The paper can give off toxic fumes.
- ✓ Keeping a fireplace clean is important. A chimney fire is less likely when a flue is properly maintained. Never leave a fireplace unattended!
- ✓ If you use candles, ensure they are in a secure candleholder. Keep an eye on curtains, draperies and other items that could make contact with the open flame.
- ✓ Keep matches away from the reach of children.
- ✓ A lot of baking occurs during the holidays, more than any other time. Be alert to hot ovens and ranges. Never try to heat a home with an oven appliance!

5. Smoke Detectors and Fire Extinguishers –

Follow these tips:

- ✓ Have a portable fire extinguisher and know how to use it.
- ✓ Ensure smoke detectors are in the home and ensure that they are operating properly. Change batteries in the spring and fall.
- ✓ Practice fire drills with the family and have a designated area to meet away from the house.

6. Holiday Parties and Alcohol –

During the holidays, traffic accidents and deaths increase dramatically because of alcohol consumption.

If you are attending or hosting a party, follow these suggestions:

- ✓ To help avoid intoxication, remember the one/one rule. One drink per hour. It is estimated that a body takes about one hour to rid itself of each half ounce of alcohol. For some individuals, this ratio might not apply.
- ✓ If you are the host, avoid drinking. Keep an eye on those that might have over indulged. A good host ensures that all guests can get home safely!
- ✓ Designate someone to drive that hasn't consumed alcohol. Keep the phone number for a taxi service.
- ✓ Encourage snacking to avoid drinking on an empty stomach.

7. Holiday Traveling – You might be one of the many people who drive some distance to see family or friends during the holidays. When you travel, follow these safety tips:

- ✓ Pre-plan your trip to include scheduled rest stops.
- ✓ Children can become restless when confined to a vehicle. Keep them buckled up and keep them entertained.
- ✓ Avoid overloading your vehicle so that your view is not obstructed with packages and suitcases.

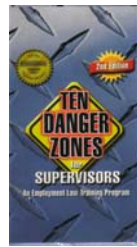
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- ✓ Avoid a heavy meal before leaving on a trip. An empty stomach can help you stay awake. Being too full can make you feel tired and sleepy.
- ✓ Get a good night's sleep before starting out on the road.
- ✓ Be alert to the increased traffic volume during holiday travel. Be patient!
- ✓ Keep an eye on weather conditions. Fall and winter driving weather can change quickly. Have alternate plans in the event of weather storms.
- ✓ Keep a cell phone in your possession and call for help should you have a breakdown or become stuck.
- ✓ Always wear your seat belts! **It's the Law!**

Revisions to MCRCSIP Employment Practices Manual

In August, a revised chapter on the Military Leave and Veterans Preference Act and a new chapter titled Social Security Number Privacy Compliance was mailed to all Members to be inserted in your EPL Manual.

A new section on Drugs and Alcohol, as it pertains to CDL drivers, has just been e-mailed to all Members. It includes pertinent information on drug and alcohol testing, as well as information on the new FMCSA regulations relating to disqualification of drivers for off-duty serious offenses. These regulations took effect October 1, 2005. (See article page 2). Paper copies of this new section will be mailed to you soon. Please include this section in your EPL Guidelines Manual as well.



“10 DANGER ZONES FOR SUPERVISORS” Employment Law Awareness Training

Recently, MCRCSIP Loss Control completed regional employment law training sessions offered to all members around the state. The attendance was very good, estimating over 200 foremen, supervisors and managers attended. The program covered such areas as (but not limited to) hiring practices, documentation, discrimination, discipline, harassment, termination, privacy and FMLA.

To assist those members that were unable to participate, three (3) additional sessions are now available. If you are interested in attending or wish to send a few individuals, please contact Mike Shultz at 616-866-3168 or mshultz@mcrsip.org. If you have not already paid, a fee of \$7.00 per attendee is requested and can be mailed to the Lansing office. The training program begins at 8:00 a.m. until approximately 2:30 p.m. Lunch and snacks are provided.

Iron River (Iron CRC) – October 26th
Prudenville (Roscommon CRC) - November 2nd
Lansing (MCRCSIP Office) – November 9th

***Only you can be yourself. No one else is
Qualified for the job.***

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REMINDER!

We're Here For You – Guaranteed

We cover your liability. If you feel you have a problem,
please call us.

1-800-842-4971

For additional copies of the "Pool Cue" please call or
e.mail Janet Wise or Kay Newberry.

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NOTICE!

Please call our **24-HOUR EMERGENCY PAGER
NUMBER** to report serious accidents that need
immediate attention after hours.

Call **1-800-209-8349** and a Specialty Claims
Investigator will respond to your call A.S.A.P.



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