

THE POOL CUE

Volume XII, Issue 1 January 2006

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.”



CDL Information Meetings

We often hear that CDL rules and regulations can be confusing for drivers and management personnel. This confusion can lead to non-compliance and potential motor carrier violations. To help explain how these rules apply to local government and private transportation, we have teamed up with Mr. Ron Edwards from the Michigan Center for Truck Safety. His vast knowledge in this area can help clear up false information and give positive assistance to you and your drivers. Recently, two MCRCSIP members held a meeting at their organizations. They indicated that the information was very helpful and well worth the time. If you are interested in having an in-house (2-hour) meeting, please contact Mr. Michael Shultz (616) 866-3168 or email at mshultz@mcrsipp.org.



MCRCSIP BOARD MEETING SCHEDULE

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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ACCEPTING APPLICATIONS FOR INSURANCE POOL ADMINISTRATOR

After 20 years as the Administrator for the Michigan County Road Commission Self-Insurance Pool, Tom Brouwer has announced that he will be retiring in August of 2006. Therefore, the Board of Trustees is accepting applications from qualified individuals to fill the position as Administrator upon Tom's retirement.

Following is a list of responsibilities, requirements and salary range for this position:

The Michigan County Road Commission Self-Insurance Pool (MCRCSIP) is a liability and property pool based in Lansing, Michigan. The MCRCSIP Board of Trustees is seeking a highly motivated, outgoing individual to serve as Pool Administrator.

Responsibilities:

- Administration of day-to-day operations including the supervision of staff, administration of contracts, budget preparation and administration, review and calculation of member contribution rates.
- Read and understand technical documents, including actuarial reports, investment reports, investment monitor reports, financial audits and loss control
- Strong communication, project management and creative problem-solving skills are essential, including attention to detail and ability to work under pressure
- Oral and written presentations to governing boards and Pool members and their governing boards and writing articles for Pool publications
- Management of member claims and oversight of third party administrator and attorneys

Required: Five years of experience in an upper management capacity with knowledge and understanding in pooling and property-casualty insurance, risk management, pool/entity administration, safety training/loss control

Preferred: Bachelors degree in applicable field, professional designations and/or solid experience in a top management position.

Salary Range: Minimum starting salary is \$75,000, plus fringe benefits.

Please submit resume with salary expectation by February 3, 2006 to:

Sharon Hice, Board Chairman
Eaton County Road Commission
1112 Reynolds Road
Charlotte, MI 48813
shice@eatoncountyroad.com

Vehicle Battery Disconnect Switches



Mike Shultz, Assistant Administrator
Loss Control/Training

From time to time, we find it important to re-address the topic of vehicle battery disconnect switches. Over the past year, we are happy to report much success from the membership; having several members report to us that the vehicle battery disconnect switches (both manuals and automatics) saved trucks and buildings from catastrophic fire loss. Unfortunately, on several occasions (during routine audits), we have found a number of trucks either (1) not having disconnect switches of either

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design, (2) the manual switches not properly shut-off, (3) someone had purposely disconnected the battery switches. All three scenarios are considered unacceptable, thus violating the MCRCSIP Board of Directors' mandate and increasing the risk of fire to our property and equipment insurance program.

To help ensure that we are staying on track with this important endeavor, we strongly encourage management to check with fleet supervisors to ensure that all necessary trucks and equipment are in compliance. If you have any questions or concerns with the battery disconnect system you are currently using, please contact Mr. Michael Shultz at (616) 866-3168 or email mshultz@mcrcsip.org. We will provide guidance and help you in any way possible.

Note: Your coverage could be jeopardized in the event of a fire due to non-compliance with the battery disconnect mandate.

Unauthorized Visitors in Road Commission Garages and Worksites

Mike Shultz, Assistant Administrator
Loss Control/Training

A recent visit to a construction worksite found a local resident standing next to an excavation trench, observing the work activities. When asked to vacate the site, the individual was slightly reluctant and did not see any harm observing and helping. The comment from the crew leader on the job was, (paraphrased) "He didn't want to tell him that, since he pays our wages"!

The risk of injury associated with heavy construction and maintenance activities are considered high by industry standards. That is why road commissions must perform many hours of safety training for employees. Someone

unfamiliar with the work culture of a road commission (i.e. visitor) has substantial risk for injury compared to a properly trained employee. That is why all road commissions must look out for this type of individual, particularly those mixing with your crews and equipment.

In the event a visitor gets injured or killed in your facilities or worksites, your organization will be challenged in court as to liability. This can be especially costly when it was obvious (or should have been obvious) that his/her presence in that area should have been questioned and no one did anything about it. From the incident referenced in the opening paragraph, had that individual become struck by the excavator boom or fell head first into the trench, we might well have offered him (or his family) a lifelong and comfortable retirement program.

Listed are some (but not limited to) risk management suggestions that can be helpful to your organization:

(1) Develop a policy that visitors must report to the front lobby or office. Access to facility side doors, unless deliveries are made, should be prohibited. Post this information at appropriate driveway entry points, and building exterior doors.

(2) Develop a plan that when a visitor must go beyond the lobby, they are escorted. One exception could be traveling to a nearby boardroom for a meeting. Educate employees that all visitors must register at the front desk, to include personal friends and family. If you find someone entering the facility from a side door or roaming around the building, ask if they can be helped and appropriately direct them to the front lobby.

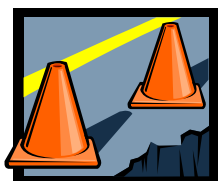
(3) Educate employees that visitors cannot simply stand around in close proximity to your worksites. When noted, they must be asked to leave the worksite

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immediately and do not continue the operation until they leave or are at a safe and clear distance away!

(4) Encourage employees to notify management (or if necessary, law enforcement) for assistance. Remember, you are representing the road commission, so do not be confrontational or disrespectful. Avoid making physical contact with any individual, unless the situation is considered immediate imminent danger to their safety and health.

NOTE: This article is limited in content and cannot purport to give you advice to all potential situations you might encounter regarding this subject. If you would like additional information or wish to share your existing policy, please feel free to contact the MCRCSIP office.



NEW MMUTCD Informational Meeting

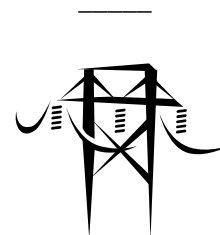
On October 1, 2005, the new 2005 Michigan Manual of Uniform Traffic Control Devices took effect. Understandably, changes to these regulations will impact the way in which your organization conducts certain roadway work activities. It would be advisable to start breaking away from the old MMUTCD and begin reviewing the new manual closely.

Although we are months away from the 2006 Construction and Maintenance season, it would be important for you to be aware of Part 5. This section is intended to give guidance on how traffic control devices are intended for low volume (<400 AADT) streets and roads. Everyone is familiar with Part 6, "Temporary

Traffic Control", however, some newer changes are also in effect for this section as well.

To assist you, we have found a statewide expert that contributed to the development of the new manual.

Mr. Donald Wiertella, Transportation Designer with DLZ of Kalamazoo, Michigan, is willing to spend a few hours explaining the manual to your organization. If you are interested in organizing a meeting in your area, please feel free to contact Mr. Mike Shultz (616) 866-3168 or contact Mr. Wiertella directly at (269) 330-1735.



**Look Up and Look Out!
Don't Let Overhead Power Lines
Be Your Next Big Accident**

Mike Phillips
MCRCSIP Senior Loss Control Specialist

In our day-to-day activities as County Road Commissions, seldom are we in the habit of looking up. After all, building and maintaining roads is typically a job that takes place under our feet. It hasn't been since the early nineties that I have gone out to a job where Miss Dig hasn't been contacted to mark the underground utilities. And this is for a good reason, more and more utilities such as electrical, phone, cable, and of course gas, water, and sewer, are being located underground and near the right of way.

What I am finding too often at our jobsites is that we are forgetting, or maybe never considered looking up, and to do so may be more important now than it has ever been. Mobile equipment is bigger and further reaching than ever. Dump trucks carry larger loads, and in turn have

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larger boxes to elevate while dumping these loads. The number of power lines and the associated voltages are increasing at an exponential rate as new subdivisions and shopping complexes are constructed.

But avoiding accidents isn't as simple as just looking up. There are other factors involved with power line hazards. There may be a tendency to underestimate the height of an overhead power line. Changes in topography may bring power lines closer to our activities than we anticipated. Heat in the summer may make the power lines expand, causing the lines to sag, bringing the lines much closer to our work activities than expected. The biggest problem by far, however, may be the misconceptions about power line safety and electrical safety held by employees.

In my experience, misconceptions about power line safety and electrical safety may lead employees to believe that they are more protected than they really are and to take chances ignoring safe work practices. The coating on power lines serves only as weather protection, and provides very little insulation from the electricity in the wires. Trees are commonly believed to provide insulation from electricity because they are made of wood. The same reasoning often applies to wooden tools or ladders. The problem here is that the slightest bit of moisture in or on the wood may cause an electrical hazard. If the wood has been treated, often these treatments contain metals, which would in some circumstances be enough to provide a path for electricity to follow. Tires are also thought to provide adequate insulation. Mobile equipment could sink into the ground or there may be debris, giving electricity a path through the rims to ground, causing a hazard to employees working on or near the equipment. Most tires today are steel belted, and if the tires are cracked, damaged, or

worn, the tires may provide a path for electricity. For these reasons, working with power lines should only be done by properly trained and equipped personnel, and that generally means someone from the power company.

So what can you do to avoid incidences with electrical power lines? First, make it a habit to assess each jobsite for electrical hazards prior to beginning work. Hold a meeting with employees and tell them exactly where the power lines are and periodically review this information with employees, especially if an activity that may involve power lines will take place that day.

For power lines less than 50 kilovolts, such as are typical in residential areas, maintain a 10-foot buffer zone. If the power lines are over 50 kilovolts, like in industrial or commercial areas, increase the buffer zone according to your power company's recommendations. Section off the affected areas by using flags, caution tape, signs, goal posts, or pavement markings. Use a spotter to help the equipment operator in tight spots. Or, if work within the safe distance from a power line simply must be done, have the power company come and de-energize the line. You may also want to consider subcontracting to someone specialized in this type of work.

If an employee operating mobile equipment does come into contact with a power line, make sure that the employee stays within the equipment until the power company de-energizes the line. If there is a fire, have the employee jump free of the equipment with feet together, then shuffle step away, never allowing the feet to leave the ground.

If you are looking to train your employees in power line safety, your local power company is a good place to start. Consumers Energy and local power cooperatives have public outreach staffs that can come and talk to your employees about electrical safety. For tree trimming and

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removal activities, training from a certified arborist experienced in working near power lines is my best recommendation. Two years ago, MCRCSIP purchased a video for each Member concerning overhead power lines, so if your employees haven't seen the video lately, it may be time to dust it off.

You should know that Pool Members have had some serious incidents involving power lines. In the last five years alone, we have had major damage to mobile equipment, even an employee fatality.

The hardest thing for an employee to understand is not to be a hero. If an employee rushes to the scene to help an endangered co-worker, that employee is likely to be the next victim. So train your employees, establish safe work habits, and tell them what to do if an emergency occurs. Remember to look up and look out.

Courts Continue to Enforce Shortened Periods of Limitations in Employment Cases



Michael R. Kluck
Michael R. Kluck & Associates

In a recent decision, the Michigan Court of Appeals again held that a shortened period of limitations contained in an employment application is enforceable. In the case, *Verdichizzi v Wright & Filippis, Inc.*, the employee signed an employment application which provided that, in consideration of the employer's review of his application, he agreed that any claim arising out of his employment would be brought within six months of the event that was the subject of the claim. The statement was in nine-point font, in bold, capitalized, and located directly above the signature line.

The employee tried to argue that the nine-point font made the statement difficult to read and minimized its importance. The court rejected this argument, noting that the size of the font was the same as the rest of the application.

The employee also argued that the language used in the application was binding only on him and that there was inadequate consideration from the employer. However, the court found that the express terms of the application made the employer's consideration of the application the consideration for the employee's waiver of the normal statute of limitations.

Finally, the employee also tried to argue that the consideration ended with his hiring because the application remained current for only thirty days if the applicant was not hired. The court rejected this argument as well. The court noted that the terms of an employment application constitute part of the employee and employer's contract of employment because the employer provides consideration to support enforcement of the terms of the application by giving the employee employment and wages. Therefore, the statute of limitations provision was held enforceable against the employee during the application period and after he was hired.

If your Road Commission is not using an employment application which contains a shortened period of limitations, *it should seriously consider doing so*. The most recent employment application included in MCRCSIP's Employment Practices Manual contains such a provision. By using an application which contains such a provision, you greatly reduce your Road Commission's exposure to liability in an employment-related lawsuit.

**MCRCSIP ADMINISTRATIVE
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REMINDER!

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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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