

# ca messenger

## MIDWEST INSULATION CONTRACTORS ASSOCIATION 7250 POE AVE., SUITE 410 - DAYTON, OH 45414 - micainsulation.org



#### VOLUME 57 NO. 5 MAY 2023



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**Safety and Employment Law Tidbits**With Gary Auman, MICA Legal Counsel

**No confidentiality clauses in severance agreements** Often, when an employer terminates an employee, the employer and

employee enter into a severance agreement whereby the employer agrees to pay that employer money in exchange for the employee's promise to release the employer from employment-related liability.

These severance agreements almost always include confidentiality clauses. Confidentiality clauses are important for many reasons, not the least of which is that the employer may not want that former employer to tell other employees about the money just paid to them.

However, the National Labor Relations board recently issued a decision prohibiting confidentiality clause in severance agreements. On February 21, 2023, in McLaren Macomb, the NLRB ruled that broad confidentiality clauses interfere with the employees' right to organize and bargain collectively ["Section 7 rights."] The Board held that an employer commits an unfair labor

practice by including a confidentiality clause in a severance agreement, regardless of whether the employer seeks to enforce its rights under the contract.

Employers seeking to enter a severance agreement with an employee should check with an attorney to determine whether a confidentiality clause is necessary and whether it could be drafted in such manner that would not restrict Section 7 rights.

NLRB Increases Damage Awards to Aggrieved Employees On December 13, 2022, the NLRB increased the penalties for unfair labor practices. Until then, the penalty for committing an unfair labor act was reinstatement, back pay going back to the violation, and the cost of any lost benefits. But now, the penalty includes "all direct or foreseeable" harms. These would be damages arising because the employee had been terminated from employment. For example, such damages could include costs from interest and penalties on unpaid credit card bills, withdrawal penalties for 401(k) loans, or even the costs of home mortgage foreclosure might be consequential damages.

Non-Compete Agreements The Federal Trade Commission has proposed a rule banning non-compete agreements in employment contracts. The FTC had opened a comment period until March 20. But, due to the overwhelming number of responses, the FTC has extended the comment period from March 20 to April 19.

Instance by Instance Starting on March 27th, OSHA began following "instance by instance" citation procedure. This means that OSHA can assess a separate penalty for each employee exposed to a cited hazard. For example, assume an employer did not provide fall protection for three employees working on a roof. Under the old citation procedure, OSHA would have issued one penalty for failure to provide fall protection. However, under the "instance by instance" method, OSHA can now assess a separate penalty for each of the three employees exposed to the hazard. This will apply to the following areas: fall protection, trenching, machine guarding, respiratory protection, permit required confined space, lockout tagout, and some recordkeeping provisions.

I



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## PRESIDENT'S MESSAGE

FREE MARRIAGE TIP:

Don't ask your wife when dinner will be ready while she's mowing the lawn.

Happy Spring MICA Members, I know that the weather up north has not exactly been like spring weather. I spoke to Lance Pickerign from Gagnon Insulation two weeks ago and he informed me that the Twin Cities had another snowstorm with about three feet of accumulated snow. Mother nature always has her way and there is not much we can do about.

I just had an article sent to me regarding the FMIA Act that was reintroduced on December 2, 2022, by Representative Linda Sanchez. The Federal Mechanical Insulation Act is supported by many of the small business contractors who are members of the Mechanical Insulators Labor Management Cooperative Trust [LMCT] and a National Union Insulation Contractors Alliance (NUICA). FMIA will mandate that mechanical insulation will be included as an approved energy and water saving measure to address efficiency needs identified by required evaluations of federal buildings. The federal government is the single largest energy consumer in the United States. Appx 350,000 buildings used more than 344 trillion Btu of energy and 119 billion gallons of water last year. Mechanical insulation will be recognized for lowering operating expenses, reducing energy loss, and decreasing emission. Sounds familiar, our industry has been the loudest voices on trying to get the government to get some type of registration passed for years.

The bill will require that an insulator has to be qualified by completing an apprenticeship registered under the National Apprenticeship Act of 1937. The bill will go to Congress this spring for approval. We will have to wait and see if Congress approves this.

With all the outdoor activities coming up, I found that stretching is important for any fitness routine. I know for a fact that my golf swing now requires a lot of stretching for my back and shoulders. Stretching helps to improve the blood flow and circulation to your muscles and improves your oxygen levels for a better performance. In addition to physical benefits, stretching can reduce stress and improve wellness. Reducing stress is always a great thing.

The Spring MICA meeting is just around the corner, June 19th thru the 21st. If you have not registered, please do. As always, we have great speakers and activities lined up for the meeting. Plus, beautiful mountain views and cool nights for outdoor outings.

Best regards and stay healthy.

Sincerely, Doug Barton

#### **MICA LEADERSHIP:**

- <u>President</u> Doug Barton, Midwest Insulation Services, Omaha, NE.
- <u>President-Elect</u> Lee Stuckenschmidt, Systems Undercover, Eaton, CO.
- <u>Vice-President</u> Kevin Rambo, F & H Insulation, Kechi, KS.
- Associate President Darrell Peil, Knauf Insulation, Rock Hill, SC.

#### **MICA BOARD OF DIRECTORS:**

- Doug Barton, Midwest Insulation Services, Omaha, NE.
- Lee Stuckenschmidt, Systems Undercover, Eaton, CO.
- Kevin Rambo, F & H Insulation, Inc.
- Matt Hymer, Midwest Materials Co.
- Carl Peterson, Delta Thermal Services
- Jeff Adair, KW Specialty Services
- Ted Nickel, Mavo Sytsems, Inc.
- George Shimada, Gagnon Incorporated
- Matt Lillig, Cornerstone Services Group
- Steve Sack, Sprinkmann Insulation, Inc.
- Darrell Peil, Knauf Insulation

#### MIDWEST INSULATION CONTRACTORS ASSOCIATION ANNUAL CONVENTION REGISTRATION FORM

Cheyenne Mountain Resort – Colorado Springs, CO June 18 - 22, 2023

Please print clearly or Register and Pay Securely Online at www.micainsulation.org. Use a separate form for each registration, and duplicate form as necessary.

COMPANY NAME					
ATTENDEE NAME		SPOUSE/GUE	ST NAME		
CHILDREN NAME(S) if Registered					
BILLING ADDRESS		CITY	STATE	Z	CIP
E-MAIL	OFFICE PHONE		CELL PHONE		
First Time Attendee	□ No				
CONFERENCE REGISTRATION:				<u>Number</u>	<u>Total</u>
First Attendee from MICA Member Firm	1 - \$825.00				\$
Each additional Attendee from the Same	Member Firm - <b>\$800.00</b>				\$
First Couple from MICA Member Firm (	Member & Spouse/Guest) - \$1	,650.00			\$
Each additional Couple from the Same M	Iember Firm - <b>\$1,600.00</b>				\$
Non-Member Attendees - \$900.00 Per Pe	erson				\$
Children Under 18 - \$0.00 No Charge (W	elcome Reception and Farev	vell Breakfast Only)			\$
Member/Spouse Opening Breakfast: I/We (will) (will not) attend the Opening Gala Dinner/Dance:					
I/We (will) (will not) attend the Gala Din	mer/Dance on Wednesday Ever	ning, June 21st. The Nu	ımber Attending is	-	
Farewell Breakfast/Brunch: I/We (will) (will not) attend the Farewell	Breakfast on Thursday Mornir	ng, June 22 <sup>nd</sup> . The Nun	nber Attending is		
ADDITIONAL ACTIVITIES:					
25th Annual "Mick Van Horn Memori	ial" Scramble Golf Tourname	ent:			
Golf Tournament Registration - \$180.00	Name:		_ Handicap		\$
Golf Club Rental - \$75.00 Please Spec	cify: (Men/Womens Clubs) (Le	eft/Right-Handed)		Descrip-	\$
Golf Tournament Registration - \$180.00	Name:	Salahi VA	_ Handicap	_	\$
Golf Club Rental - \$75.00 Please Spec	cify: (Men/Womens Clubs) (Le	eft/Right-Handed)		3	\$
Golf Registration Fee includes lunch, 1 Bermuda length shorts, collared shirt an premises.					
Tuesday Spouse/Guest Outing: Downto	own Colorado Springs Food	<u>Γour</u>			
□ \$0.00 Free of Charge (18 or older)	□ \$0.00 Free of Cahrge (ur	nder 18)	Name:		
□ \$0.00 Free of Charge (18 or older)	□ \$0.00 Free of Cahrge (ur	nder 18)	Name:		
□ \$0.00 Free of Charge (18 or older)	□ \$0.00 Free of Cahrge (ur	nder 18)	Name:		
□ \$0.00 Free of Charge (18 or older)	□ \$0.00 Free of Cahrge (ur	nder 18)	Name:		

#### **COMPLIMENTRAY CONVENTION SHIRT:**

Each MICA Member (not including spouses) will  ☐ No, I do not require a shirt.	receive a complimentary shirt if registrat	ion is completed by May 19, 2023.
☐ Yes, I would like a (Mens/Womens) Polo Sport	Shirt in Size (S, M, L, XL, 2XL, 3XL, 4XL)	) Name:
Additional shirts, jackets and windshirts can be order	red on the Shirt Order Form separate from th	is registration form.
TOTAL PAYMENT DUE: \$		
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Name of Cardholder:	Credit Card Number:	
Exp. Date: CSV:	Billing Zip Code:	
CANCELLATION POLICY: All cencellations must be received in writing. 100% Prior to June 1, 2023; No Refund on Cancellations		May 19 <sup>th</sup> ; 75% Refund on Cancellations Received
Please Register Securely Online or return your co	ompleted Registration Form with payment	t by May 19, 2023, to:
MICA 7250 Poe Ave. Ste. 410 Dayton, OH 45414		
E-Mail to mica@micainsulation.org Fax to 937-278-0317		
144 10 201-210-0011		

QUESTIONS: Contact the MICA Office at: 888-294-0084 or <a href="mica@micainsulation.org">mica@micainsulation.org</a>

#### MIDWEST INSULATION CONTRACTORS' ASSOCIATION

#### Schedule of Events 2023 Annual Convention

#### 2025 Annual Convention

#### Cheyenne Mountain Resort - Colorado Springs, CO

#### **SUNDAY, JUNE 18, 2023**

1:00 p.m. Executive Committee Meeting (Closed)

3:00 p.m. Past Presidents' Planning Committee Meeting (Closed)

5:30 p.m. Past Presidents' and Board of Directors' Dinner (By Invitation)

#### **MONDAY, JUNE 19, 2023**

9:00 a.m. - 12:00 p.m. Board of Directors Meeting (Closed)

12:30 p.m. - 5:00 p.m. General Registration and MICA Hospitality Room Open

1:00 p.m. - 5:00 p.m. Manual Committee Meeting (Closed)

1:00 p.m. - 2:15 p.m. Promotion & Membership Committee Meeting (Open to All Attendees)

2:30 p.m. – 3:45 p.m. Young Professionals Committee Meeting

(Open to All Attendees under 40 or with less than 5 years' experience in the industry)

4:00 p.m. - 5:00 p.m. First Time Attendee Orientation and Reception

5:00 p.m. - 6:00 p.m. Associate Sponsored Opening Night Welcome Reception

Evening Open Dinner on Your Own

#### **TUESDAY, JUNE 20, 2023**

8:00 a.m. – 8:45 a.m. Member/Spouse Plated Breakfast and Opening Remarks

8:45 a.m. – 10:15 a.m. Keynote Presentation

with Dave Dravecky

Dave Dravecky's story is one of finding hope, courage, and perseverance in the midst of dark and overwhelming uncertainty. In 1988, he was at the top of his game and his life. Not only did he have a wonderful family, but he was also at the peak of his career, playing the game of his childhood dreams. His opening day victory over the Dodgers was overshadowed later that fall by the discovery of cancer and the removal of half of the deltoid muscle in his pitching arm. You won't want to miss Dave tell of his life experiences and how he discovered the value and significance of relationships - relationships with co-workers, family members and anyone else on 'his team.'

10:30 a.m. – 11:45 a.m. It Takes More than a Hard Hat to Keep a Head Safe: The Value of Mental Health

Awareness in the Construction Industry

with Mandy McIntyre, Level Up Consultants

When you think about jobsite hazards, physical risks are probably at the top of the list - an unprotected fall, an unmarked restricted zone, etc. But what about the dangers you can't see? Construction workers are statistically at a higher risk for mental health issues

than virtually every other profession and have the highest suicide rates of all industries according to the Centers for Disease Control and Prevention (CDC) and the Substance Abuse and Mental Health Services Administration (SAMHSA). A 2020 study found that 83% of construction workers have experienced a mental health issue.

This session will provide solid solutions and resources on the value of mental health awareness initiatives to provide safer job sites, a more profitable business, and combating the labor shortage by helping to attract, engage and retain your workforce.

10:45 a.m. - 2:30 p.m.

#### Downtown Colorado Springs Food Tour - Spouse/Guest Program

This 3-hour private guided lunch tour will start at the hotel where we will be met by a trained tour leader who will share local history of Colorado Springs on our way downtown to the restaurants. At each of the four stops, guests will be treated to food paired with alcoholic drinks (if over 21) and fun behind-the-scenes information about each location. You won't want to miss this super fun and memorable experience!

12:00 Noon

#### Golf Tournament – Shotgun Start at 1:00 p.m.

The Country Club of Colorado is surrounded by the jagged peaks of the Rocky Mountains. This Pete Dye-designed course was created to challenge golfers of all skill levels.

Afternoon and Evening Open

Dinner on Your Own

#### WEDNESDAY, JUNE 21, 2023

7:00 a.m. - 8:20 a.m. Safety & Environmental Committee Meeting (Open to All Attendees)

8:30 a.m. – 9:15 a.m. Annual Meeting of the Membership and Election of Board of Directors

Recognition of "Best Practices in Safety" Participants

with Gary Auman, MICA Legal Counsel

9:15 a.m. – 9:50 a.m. "Better Together" with NIA President, Laura Dover of Dover Insulation

NIA's Education Center for Mechanical Insulation with Michele Jones, Executive Vice-President/CEO of NIA.

10:00 a.m. - 11:00 a.m.

#### Manpower Shortages, Recruitment Strategies, and Enticing People to Choose Mechanical Insulation as their Career

with Tom Fischer, Executive Director North Atlantic States Carpenters Training Fund

Tom will share the step-by-step process that has taken place during the New England Carpenters Union Apprenticeship and Training Program's transition from struggling to recruit and retain apprentices to an organization that is now able to choose the best and brightest to fill the future needs of the New England and New York State construction economy. Topics of discussion will include defining company and organizational needs, effective outreach, vetting of candidates, the effectiveness of social media, high school internships, diversity needs, and creating a culture of respect that will attract the next generation of craftspeople. In addition, Tom will share the specific tools that have been used over the past five years as well the data that is used to drive decision making.

11:00 a.m. – 12:00 p.m.

#### **Open Forum Discussions:**

- ❖ Union Contractors Forum –Ted Nickel, Moderator.
- ❖ Open Shop Contractors Forum Adam DeGraaf, Moderator.
- ❖ Associate Member Forum Darrell Peil, Moderator.

Afternoon Open

#### Open to Enjoy the Sites of Colorado Springs

6:30 p.m.- 11:00 p.m. Gala Reception, Dinner, and Dance (Casual Dress)

#### THURSDAY, JUNE 22, 2023

7:30 a.m. Board of Directors Meeting (Closed)

9:00 a.m. - 10:30 a.m. Farewell Breakfast Buffet, Sports Awards, and Prizes

NOTE: This is a tentative schedule of times and events. The final schedule and starting times for some events may vary from this tentative schedule.

DRESS CODE: The dress code for the convention is causal for all events including the Tuesday evening dinner. This year, the Tuesday Evening Gala Reception and Dinner is casual dress (Florida Casual Attire Acceptable – No shorts or cut-offs please).

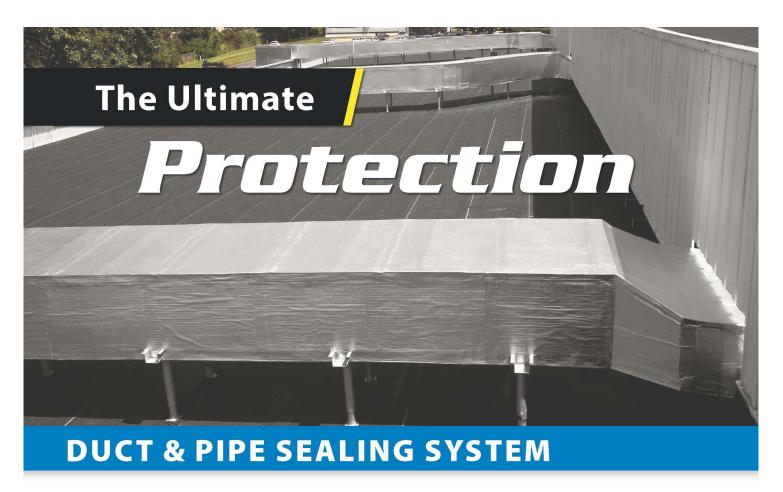




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#### Total Construction Jumps in March to Three Month High, Bolstered by Nonbuilding Strength

Despite economic woes and bank failures, construction shows strength across Q1

HAMILTON, NJ —April 20, 2023 — Total construction starts increased 19% in March to a seasonally adjusted annual rate of \$1.09 trillion, according to Dodge Construction Network. During the month, nonresidential starts rose 33%, non-building starts increased 17%, and residential starts moved 5% higher.

In Q1 of 2023, total construction starts were 9% below that of 2022. Year-to-date, residential starts were down 29%, nonresidential and nonbuilding starts grew 6% and 12% respectively. For the 12 months ending March 2023, total construction starts were 11% higher than the 12 months ending March 2022. Nonresidential and nonbuilding starts were 33% and 21% higher, respectively, while residential starts lost 11%.

"Construction starts activity has yet to see the impact of tightening financial conditions in the wake of the failure of Silicon Valley and Signature Banks," said Richard Branch, chief economist for Dodge Construction Network. "Several large manufacturing projects are breaking ground; pushing nonresidential buildings higher, while a nascent recovery in single family starts has been supporting residential growth. Construction starts began the year with gusto, but that is likely to erode as the year progresses, as seen by the declining trend in the Dodge Momentum Index, which tracks projects entering the earliest stages of planning."

• Nonbuilding construction starts gained 17% in March to a seasonally adjusted annual rate of \$263 billion. Miscellaneous nonbuilding was the only category to post a month-over-month loss. Environmental public works rose 35%, utility/gas plants gained 16%, and highway and bridge starts were up 13%. Year-to-date across Q1, non-building starts gained 12%. Miscellaneous non-building starts were up 43%, environmental public works rose 22%, utility/gas plants moved 8% higher, while highway and bridge starts gained 1%.

For the 12 months ending March 2023, total non building starts were 21% higher than the 12 months ending March 2022. Utility/gas plant starts rose 32%, and highway bridge starts

increased 16%. Environmental public works and miscellaneous nonbuilding starts were up 20% and 23%, respectively, on a 12-month rolling sum basis.

The largest nonbuilding projects to break ground inMarch were the \$606 million I-35 Capital Express North Lanes in Austin, Texas, the \$445 million Klamath River Renewal Project, in Oregon, which involves the removal of hydroelectric dams, and he \$375 million 360 MW Atrisco Solar Farm in Rio Rancho, New Mexico.

Nonresidential building starts increased 33% in March to a seasonally adjusted annual rate of \$492 billion. Manufacturing starts more than doubled over the month and once again were the driving force behind the gain as three very large projects got underway. Without these projects, total nonresidential starts would have only gained 3%. Commercial starts rose 28%, with retail as the only category to fall, while institutional starts improved 11% due to numerous healthcare projects getting underway. On a year-to-date basis through three months, total nonresidential starts were 6% higher than the first three months of 2022. Institutional starts gained 21%, manufacturing starts were 1% higher, while commercial starts were down 5%.

For the 12 months ending March 2023, total non-residential building starts were 33% higher than the 12 months ending March 2022. Manufacturing starts were 122% higher, institutional starts improved 22%, and commercial starts gained 18%.

The largest nonresidential building projects to break ground in March were the \$5.5 billion Hyundai EV plant in Ellabell, Georgia, the \$3.0 Panasonic Energy North America Battery Manufacturing Plant, and the \$780 million third phase of the BASF MDI chemical plant in Geismar, LA.

• Residential building starts increased 5% in March to a seasonally adjusted annual rate of \$335 billion. Single family starts rose 4%, and multifamily starts increased 8%. On a year-to-date basis through three months, total residential starts were down 29%; single family starts were 37% lower, while multifamily starts were down 12%.

For the 12 months ending in March 2023, residential starts were 11% lower than the 12 months ending in March 2022. Single family starts were 23% lower, while multifamily starts were up 16% on a rolling 12-month basis.

(continued to page 15)

# COST EFFECTIVE REPRESENTATION

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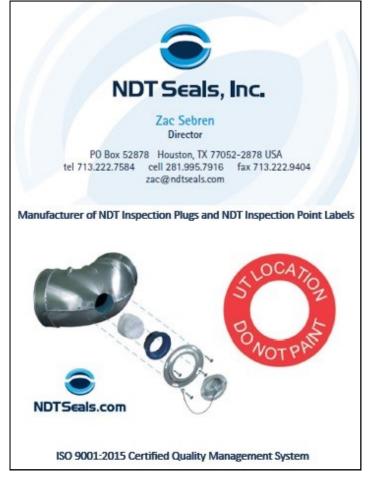


Gary W. Auman

## Auman Mahan + Furry

ATTORNEYS

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#### **SAVE THE DATE**

MICA 66th Annual Convention — June 18-22, 2023,

Cheyenne Mountain Resort, Colorado Springs, CO.

**ROOM BLOCK CUT-OFF DATE:** Friday, May 19, 2023

MICA Fall 2023 Annual Fall Business Meeting — November 7-9, 2023,

Omaha Marriott Downtown at the Capitol District, NE **ROOM BLOCK CUT-OFF DATE:** Friday, October 6, 2023

2024 MICA Winter Board & Committee Meetings January 25-27, 2024 Scottsdale Plaza Resort

ROOM BLOCK CUT-OFF DATE: December 26, 2023

MICA 67th Annual Convention — June 2024,

In Region; Sites Under Consideration.

MICA 68th Annual Convention — June 16-19, 2025,

Hyatt Regency Coconut Point Resort, Bonita Springs, FL.

#### MICA MEMBER ADDRESS/INFO. UPDATES

Be sure to inform the MICA office of any changes or corrections to your listing for either the MICA Directory, e-mail correspondence or mailing address. Even if you update your company listing on the MICA website, please inform the MICA office of the changes. We try to be as current as possible with your help.



The largest multifamily structures to break ground in March were a \$400 million mixed-use in Jamaica, New York, the \$225 million Chestnut Commons Affordable Housing project in Cypress Hills, New York, and the \$268 million Knox mixed-use development in Dallas, Texas.

Regionally, total construction starts in March rose in all five regions.

#### March 2023 CONSTRUCTION STARTS

#### MONTHLY CONSTRUCTION STARTS

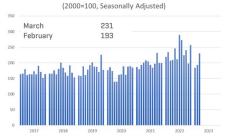
(Millions of Dollars, Seasonally Adjusted Annual Rate)

	Mar 2023	Feb 2023	% Change
Nonresidential Building	\$492,423	\$369,178	33
Residential Building	335,006	318,491	5
Nonbuilding Construction	262,875	225,012	17
Total Construction	\$1,090,304	\$912 681	19

#### YEAR-TO-DATE CONSTRUCTION STARTS

	3 Mos. 2023	3 Mos. 2022	% Change
Nonresidential Building	\$91,172	\$85,999	6
Residential Building	78,313	110,363	-29
Nonbuilding Construction	55,400	49,546	12
Total Construction	\$224.885	\$245.908	-9





#### About Dodge Construction Network

Dodge Construction Network leverages an unmatched offering of data, analytics, and industry-spanning relationships to generate the most powerful source of information, knowledge, insights, and connections in the commercial construction industry.

The company powers four longstanding and trusted industry solutions—Dodge Data & Analytics, The Blue Book Network, Sweets, and IMS—to connect the dots across the entire

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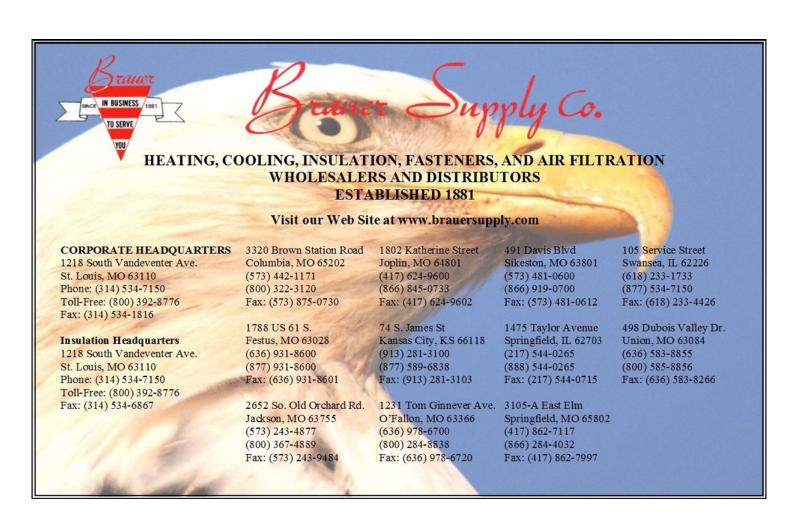




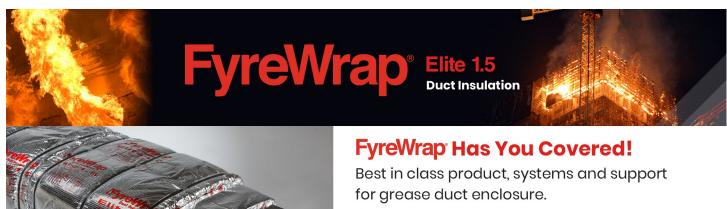
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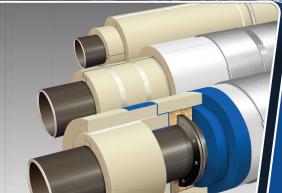
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#### ABOUT US

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#### INSULATION ACCESSORIES

Elastomeric pipe insulation Rubber sheet & roll goods

Pre-cut metal jacketing -- Metal fittings (LR, SR & Victualic)

PVC, FSK, FOIL & ASJ Tapes Ba

Banding & Fasteners

#### OTHER MARKETS SERVED

Fiberglass duct liner

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Duct gasketing & sealants

**Commercial Roofing** 

**Residential Roofing** 

Wall Systems and cladding







#### US Department of Labor announces launch of 'Beat the Heat' contest

OSHA seeking new tools to increase awareness of heat hazards at work

WASHINGTON – Do you have an idea for helping workers stay safe in the heat? The U.S. Department of Labor's Occupational Safety and Health Administration today announced the launch of a nationwide competition for stakeholders in all industries to share their best tools and other resources for informing workers about the dangers of heat exposure in indoor and outdoor workplaces.

OSHA's "Beat the Heat" contest seeks to educate workers and employers about workplace heat hazards, raise industry and general public awareness of the dangers excessive heat presents to workers, and motivate employers and workers to act to prevent heat illness.

Open to stakeholders in all industries, the competition will be judged by a panel of subject matter experts in OSHA and other federal agencies. The panel will choose winners based on the following factors:

- Innovation
- Creativity
- Strength of message
- Best non-English language entry
- Indoor heat emphasis
- Young Worker emphasis

#### All submissions must be received by June 9, 2023.

Visit the OSHA Beat the Heat contest webpage for contest rules and submission instructions. Send questions about participation to heatcampaign@dol.gov.

Winning submissions will be displayed on OSHA's website and featured in the agency's QuickTakes and The Heat Source newsletters. Winners will also receive a letter of appreciation from Assistant Secretary for Occupational Safety and Health Doug Parker, a Beat the Heat Challenge Coin and a congratulatory certificate.



Since 1988















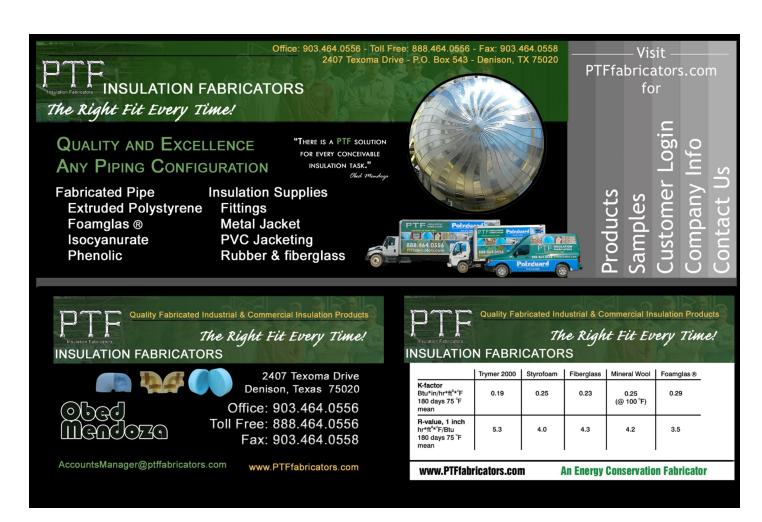








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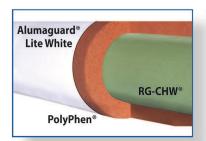
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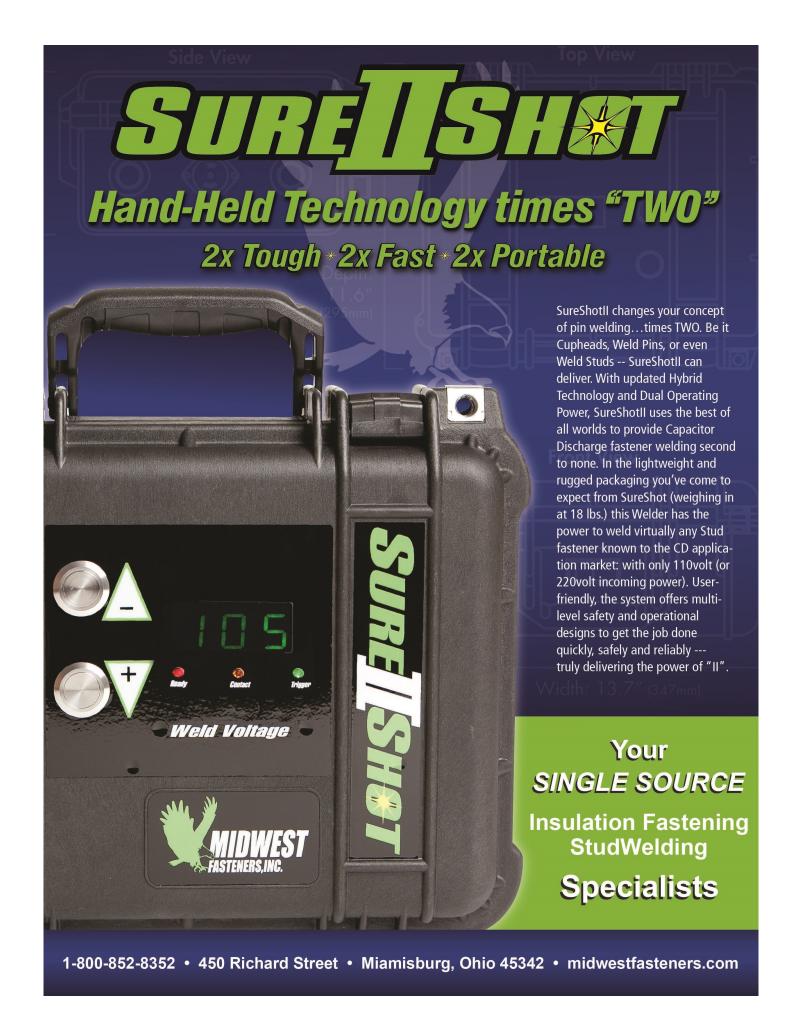
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#### Extol Fabricated Metal Covers

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#### **BROAD RANGE OF SIZES AND SHAPES**

Extol Fabricated Metal Covers are fabricated in a broad range of shapes that includes but is not limited to the following: End Caps, Reducers, Flange Covers, 90's, 45's, Tees, Tank Heads and Valve Covers. A variety of alloys, thicknesses and finishes are available to match your application.

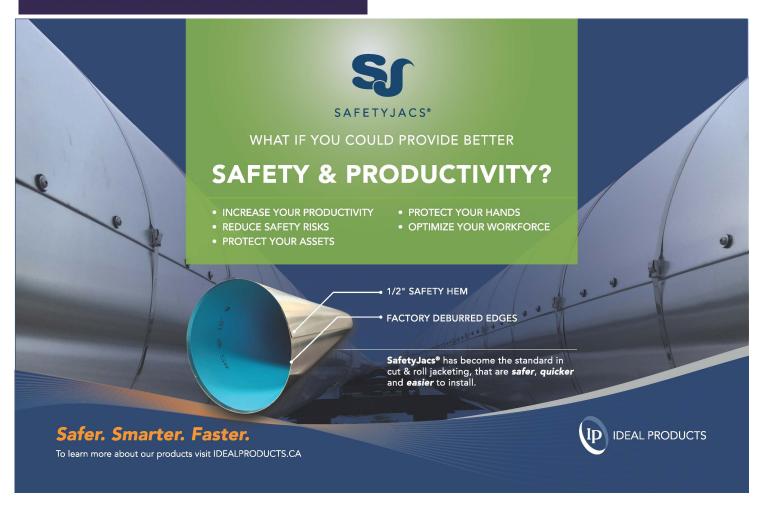
#### SHAPING THE INDUSTRIAL INSULATION MARKET FOR OVER 35 YEARS

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