MICA SAFETY PROGRAM REVIEW AND AWARD

This article was written by Gary Auman, MICA Legal Counsel, Dunlevey, Mahan & Furry

MICA has always understood the importance of safety on the job site. As a result of this, MICA implemented a safety award program seven years ago. The MICA Board asked me again to prepare some comments for your consideration as to the value of participating in our safety award program. If you don’t have a good plan for getting a job done, the outcome is going to be less than satisfactory. I believe, as you should that this applies to safety - good safety performance starts with a good safety program.

I titled this article as I did because this is more than a safety award program, it is a safety program review. Try to analogize having your safety program reviewed annually to other things that you do in your life to ensure that your company’s equipment operates as intended. For those of you who passed your fiftieth birthday, I am sure that you have been advised by your family physician to have an annual or biannual physical. Your doctor recommends this, because he is aware that as you get older you become more prone to some of the physical problems that are connected with aging. You take a physical to make sure you have an early warning of anything that needs to be addressed before it becomes a significant problem.

In your business, I would be surprised if any of you do not perform preventive maintenance on the equipment that you depend on to be successful as a contractor. In addition, you most likely perform other preventive maintenance such as tire rotation, etc., in order that you can avoid any significant problems.

Well, your safety program is also an integral part of your business. It too can deteriorate with age and lack of use. It too needs preventive maintenance to avoid catastrophic failure. When a safety program fails you, someone can get seriously injured or killed. Or, you can be confronted with an OSHA inspection and find out through the citations issued that your safety program is not what you thought it was and is not as effective as it needs to be.

You could pay hundreds or even thousands of dollars to have a safety consultant review your safety program. Through the MICA safety program review and awards opportunity, you can have portions of your safety program reviewed, and receive written comments from individuals who have a wealth of experience in dealing with safety issues. You will receive valuable feedback from the reviewing panel with regard to those aspects of your program which are in the competition, and you will receive recognition from MICA for your achievement in developing a quality safety program.

When you look at the MICA safety program review and awards opportunity, you have to agree that there is absolutely no reason why you should sit on the

(Continued on page 4)
PRESIDENT’S MESSAGE

TO: THE MICA MEMBERSHIP

HELLO MICA FAMILY,

Here we are heading towards the end of March already, and honestly, I don’t know where these first three months of the New Year have gone. I look back at around the last week of June (which does not seem like it was 10 months ago already) and remember thinking about what was I going to write in my first MICA newsletter as the new MICA President, and here I am, writing # 10 already. The beauty of it being March is spring is here, well almost.

We still have snow on the ground here in Eastern Iowa. In fact, I think we have had snow every week for a month. I do remember the month of March last year very well; my grass was green and in need of cutting already. The trees all had buds on them and the flowers had come up and started to blossom. What a difference a year makes.

We probably all agree that time is flying by us fast, and I want to talk in this message a little more about our spring fling and the need to make your reservations promptly for the 56th Annual MICA Spring Convention held at the Waldorf Astoria in Naples, Florida. If you have not googled this place yet, or read any of my last messages, you may want to. This is a really beautiful 5 star resort that will allow you to mix business with pleasure for the whole family.

The price that MICA was able to negotiate for the rooms is only $135.00 per night. Yes, a beach, an adult pool, and a zero entry pool with a slide for the kids, an outdoor bar and restaurant by the pools and being at the beach really make this a great venue for the family.

The Board of Directors has put together what I think is another stellar schedule of speakers and topics that will be sure to make this session a great value for the money. Don’t forget that the dates changed this year due to member request. We are starting the MICA conference one day later this year. We are starting on the Monday after Father’s Day rather than on Father’s Day. So make sure you check the dates closely on the schedule before you book your flights.

Another reminder that I feel is beneficial to mention to you all is that the Wednesday gala event’s dress code is business-casual with a tropical theme (sorry guys, no shorts, and sorry girls, no bathing suits at the gala) so no need to pack the suit and ties or those semi-formal dresses (unless you still want too). Judy and I, as well as the whole MICA board of directors, hope to see all you members and your families in June.

Thanks for reading, and I will talk at you all next month.

Regards,

Rich Huseman
President of MICA

P.S. Cindy Shimerda took this picture in Naples!
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sidelines while other members of MICA, some of whom are your competitors, take advantage of this MICA member benefit. Take a few minutes, pull out the application, complete it, and send it in to MICA’s general counsel along with your check for $30.00 made payable to MICA. Be sure that it is received in time for the review committee to take a look at it and provide you with their valuable comments concerning the effectiveness of your safety program.

REMEMBER — The application submittal deadline is April 15, 2013. Your completed application form must be received by the end of the business day on April 15th. The application form is available from the MICA office. Just call or e-mail us, and we will send you a copy of the application form.

U.S. LABOR DEPARTMENT ANNOUNCES NEW ONLINE RESOURCES TO HELP BUSINESSES RECRUIT, TRAIN AND RETAIN A SKILLED WORK FORCE

WASHINGTON — The U.S. Department of Labor announced the launch of the Business Center, a suite of online resources for employers looking to recruit, train and retain a skilled work force through the department's CareerOneStop Web site.

The site includes tips about how to recruit qualified candidates through local American Job Centers and provides employment projections. Additionally, the site offers access to local training and educational institutions, a catalog of occupational certifications and a tool to help employers translate the military training and skills of returning service members into specific civilian occupations. The CareerOneStop Business Center is available online at http://www.careeronestop.org/business.

"These resources will help educate employers about our nation's work force development system and put the resources they need to find and hire qualified workers right at their fingertips," said Jane Oates, assistant secretary of labor for employment and training.

The new Business Center page builds on existing resources available through CareerOneStop, which also has information to help job seekers find education and training providers, conduct a job search and access local labor market information.
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NEW MEMBER COMPANY

The MICA office has received the application for membership from our newest active member firmRM WHITE CO., in Sioux City, Iowa. Both Dan White, Vice President and Dennis Dorcey, warehouse manager, attended our fall 2012 business meeting and were impressed with what they saw. Dan is looking forward to getting involved with MICA and participating in our upcoming conventions and meetings.

RM White is a merit shop contractor that operates primarily in the food process and cold storage industries. They perform insulation for all processes and specialize in refrigeration systems. The company also sells direct to insulation contractors and stock a wide variety of materials.

Please welcome RM White Co. into MICA and add the following contact information to your MICA Directory:

RM White Co.
1528 22nd Street
Sioux City, IA 51104
Dan White, Vice President
712-258-7272
rmwhiteco@cableone.net
JOE OSTER NAMED UPPER MIDWEST SALES REPRESENTATIVE FOR EXTOL OF OHIO INC.

Joe Oster has been named Upper Midwest Sales Representative for Extol of Ohio, a leading fabricator of closed cellular insulation materials. In his new position, Joe will be responsible for growing Extol of Ohio Inc.’s business throughout the Upper Midwest. He resides in the Minneapolis, MN area with his wife and two children.

Joe spent the last 15 years in the construction industry selling concrete products.

Extol of Ohio Inc. is a leading fabricator of closed cellular insulation materials for applications in the refrigeration, commercial and petrochemical markets. They provide total fabrication services for pipe, fittings, valves, heads, boards as well as OEM parts. Extol also offers a full line of accessory products that include PVC, metal, Fibaclad, coatings, adhesives and mastics.

Joe Oster can be reached via email at – joe@extolohio.com, on his mobile – 651-485-5178 or through the office at 800-486-9865.

K-FLEX USA APPOINTS NEW NORTH AMERICAN SALES MANAGER

K-FLEX USA, a leading manufacturer of closed cell flexible elastomeric insulation, has appointed Steve Brown as North American Sales Manager for the company’s Commercial/Industrial division.

Steve joined K-FLEX in 2004 as Regional Sales Manager in the company’s HVAC and Commercial/Industrial divisions, overseeing activities in the Southwestern, Mid-Atlantic and Southeastern regions of the U.S., as well as Mexico. During that time, Steve has been an active member of NIA, including serving on the organization’s Executive Committee as an Associate Representative and becoming a Certified Insulation Energy Appraiser. Prior to joining K-FLEX, Steve worked in several industries in sales and marketing management roles.

Lee Walter will continue to serve as Regional Sales Manager for the Western U.S. and Canada within the Commercial/Industrial division, as well as North American Sales Manager for the company’s Performance Foams division.

Steve can be reached at 770-715-3713 or e-mail him at; steve.brown@kflexusa.com.
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K-FLEX USA ANNOUNCES NEW DOUBLE-SEAL SELF-SEAL TUBES

YOUNGSVILLE, NC (March 7, 2013) – K-Flex USA, a leading manufacturer of elastomeric insulation, announces a new “Double-Seal” self-seal tube. K-Flex® Seam-Seal DS is comprised of a pre-slit elastomeric tube with a factory-applied pressure sensitive modified acrylic adhesive with scrim reinforcement on the seam surface and a flexible PVC overlap tape with acrylic adhesive for doubled seam security.

K-Flex® Seam-Seal DS is available from ½” to 2” wall thickness up to 4” IPS in white or black color. The announcement demonstrates K-Flex USA’s commitment to provide customers with innovative, efficient and reliable solutions for demanding insulation applications.

About K-Flex USA
K-Flex USA is a leading manufacturer of innovative, elastomeric thermal and acoustic insulation for mechanical systems in the HVAC/R, Commercial / Industrial, Plumbing, Oil and Gas, Acoustic and Marine markets. For more information, please visit www.kflexusa.com.

NORFOLK SOUTHERN RAILWAY CO. ORDERED BY U.S. LABOR DEPARTMENT’S OSHA TO PAY $1.1 MILLION AFTER TERMINATING 3 WORKERS FOR REPORTING INJURIES

The following news release is reported here in order for you to see that OSHA is taking the enforcement of the whistleblower act seriously.

WASHINGTON – Norfolk Southern Railway Co. has been ordered to pay $1,121,099 to three workers following an investigation by the U.S. Department of Labor's Occupational Safety and Health Administration, which found that the company violated the whistleblower provisions of the Federal Railroad Safety Act. Two investigations, conducted by OSHA staff in Chicago and Pittsburgh, found that three employees were wrongfully fired for reporting workplace injuries. In addition to monetary remedies, the company has been ordered to expunge the disciplinary records of the three whistleblowers, post a notice regarding employees' whistleblower protection rights under the FRSA and train workers on these rights.

(Continued on page 11)
Railroad carriers are subject to the FRSA, which protects employees who report violations of any federal law, rule or regulation relating to railroad safety or security, or who engage in other protected activities.

“The Labor Department continues to find serious whistleblower violations at Norfolk Southern, and we will be steadfast in our defense of a worker's right to a safe job – including his or her right to report injuries,” said acting Secretary of Labor Seth D. Harris. “When workers can't report safety concerns on the job without fear of retaliation, worker safety and health suffer, which costs working families and businesses alike.”

One investigation involved a crane operator based in Fort Wayne, Ind., who was removed from service after reporting an eye injury requiring the extraction of a sliver of metal and rust ring from his eye. The injury occurred while he was operating a crane in support of a bridge-building operation in Albany, Ind. The employee was taken out of service and formally terminated on Aug. 24, 2010, after an internal investigation determined he had made false statements concerning the injury.

OSHA's investigation concluded that the worker would not have been terminated if he had not reported the injury. The agency has ordered the railroad to pay him a total of $437,591.70 in damages, which includes $100,000 in compensatory damages for pain and suffering, $175,000 in punitive damages, and $156,518.94 in back wages and benefits. It also includes compensation of $6,072.76 to the crane operator for penalties incurred when he had to cash in savings bonds prior to their maturity date after being terminated. In addition to damages, the company has been ordered to pay reasonable attorney fees. Further, OSHA has ordered the railroad to reinstate the worker to the proper seniority level, with vacation and sick days that he would otherwise have earned.

OSHA's second investigation involved a thermite welder and a welder's helper based in western Pennsylvania. Both employees had worked at the railroad for more than 36 years without incident when they reported injuries sustained as a result of an accident caused by another vehicle that ran a red light and hit a second vehicle, which in turn collided with the company truck in which they were riding.

The employees initially reported minor shoulder area pain plus some stiffness and soreness. Later, when questioned by management, they initially declined medical treatment, but as the pain increased, sought and received treatment at a local hospital. They were then taken out of service pending an investigative hearing and formally terminated. Management concluded that the employees' reports about their condition were false and conflicting and constituted misconduct.

(Continued from page 10)

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FUTURE MICA MEETING DATES

56th Annual Spring Convention — June 17 — 20, 2013, Waldorf Astoria Naples, Naples, Florida. [Please note that the convention will begin on the Monday after Father’s Day. This slight change in the schedule is the direct result of member feedback to the Board].

Fall 2013 Annual Fall Business Meeting — October 16 & 17, 2013, Embassy Suites Downtown, Omaha, NE.

57th Annual Spring Convention — June 16 — 19, 2014, Eagle Ridge Resort, Galena, Illinois. [Please note that the convention will begin on the Monday after Father’s Day. This slight change in the schedule is the direct result of member feedback to the Board].

Fall 2014 Annual Fall Business Meeting — October 22 & 23, 2014, Embassy Suites Downtown, Omaha, NE.

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.
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OSHA's investigation found that the employees were terminated for reporting injuries to management. The agency has ordered the railroad to pay them $683,508 in damages, including $300,000 in punitive damages; $233,508 in lost wages, benefits and out-of-pocket costs; and $150,000 in compensatory damages for pain and suffering. Interest on back pay due will accrue daily until the employees are paid. In addition to damages, the company has been ordered to pay reasonable attorney fees.

These actions follow several other orders issued by OSHA against Norfolk Southern Railway Co. in the past two years. OSHA's investigations have found that the company continues to retaliate against employees for reporting work-related injuries, and these actions have effectively created a chilling effect in the railroad industry.

"The Labor Department's responsibility is to protect all employees, including those in the railroad industry, from retaliation for exercising these basic worker rights," said Dr. David Michaels, assistant secretary of labor for occupational safety and health. Railroad workers must be able to report work-related injuries without fear of retaliation."

Norfolk Southern Railway Co. is a major transporter/hauler of coal and other commodities, serving every major container port in the eastern United States with connections to western carriers. Its headquarters are in Norfolk, Va., and it employs more than 30,000 union workers worldwide.

Any party to these cases can file an appeal with the Labor Department's Office of Administrative Law Judges within 30 days of receipt of the findings.

On July 16, 2012, OSHA and the U.S. Department of Transportation's Federal Railroad Administration signed a memorandum of agreement to facilitate coordination and cooperation for enforcing the FRSA's whistleblower provisions. Between August 2007, when OSHA was assigned responsibility for whistleblower complaints under the FRSA, and September 2012, OSHA received more than 1,200 FRSA whistleblower complaints. The number of whistleblower complaints that OSHA currently receives under the FRSA surpasses the number it receives under any of the other 21 whistleblower protection statutes it enforces except for Section 11(c) of the Occupational Safety and Health Act of 1970. More than 60 percent of the FRSA complaints filed with OSHA involve an allegation that a railroad worker has been retaliated against for reporting an on-the-job injury.

OSHA enforces the whistleblower provisions of the FRSA and 21 other statutes protecting employees who report violations of various airline, commercial motor carrier, consumer product, environmental, financial reform, food safety, health care reform, nuclear, pipeline, worker safety, public transportation agency, maritime and securities laws. Employers are prohibited from retaliating against employees who raise various protected concerns or provide protected information to the employer or to the government.

Employees who believe that they have been retaliated against for engaging in protected conduct may file a complaint with the
secretary of labor to request an investigation by OSHA’s Whistleblower Protection Program. Detailed information on employee whistleblower rights, including fact sheets, is available at http://www.whistleblowers.gov.

SBA TO EXPAND ACCESS TO LOAN PROGRAMS

WASHINGTON – Borrowers and lenders of loans backed by the U.S. Small Business Administration will have greater access to capital and less paperwork as a result of a proposed regulation aimed at streamlining the SBA application process, while also strengthening oversight and the integrity of the agency’s loan programs.

“Streamlining and simplifying has been a key focus of our agency over the last few years. The changes are the latest steps to reduce paperwork burden, with our eye on the larger goal of expanding access to capital and giving entrepreneurs and small business owners the financial resources to grow and create jobs,” said SBA Administrator Karen Mills. “Specifically, these proposed regulations will provide greater access to capital through our two largest loan programs, while also reducing risk to taxpayer dollars.”

The SBA proposes the new measures after extensive consultations with lenders and borrowers to identify the greatest challenges they face and find ways to reduce barriers to making and accessing loans, while still maintaining strict oversight.

Among the proposed changes are:
Eliminating the Personal Resource Test: A borrower will no longer be required to obtain a maximum level of personal finance resources for a 7(a) or 504 loan. This will streamline the loan process by eliminating complicated regulations used to determine the amount of collateral required.

Revising the Rule on Affiliation: Revising this rule will open access to SBA loans to businesses that, under current rules, would not qualify as a small business under SBA’s size standards by virtue of their association with other companies. It also would streamline 504 loan applications and reduce paperwork requirements for 504 and 7(a) loan applications.

Eliminating the Nine-Month Rule for the 504 Loan Program: Eliminating the Nine-Month rule removes a restriction that limits a business to include in its 504 project only expenses incurred nine months prior to submitting the loan application. The new rule would allow inclusion of expenses incurred at any time (e.g., projects put on hold for more than nine months due to a natural disaster).

Increasing Accountability of the Certified Development Companies’ Board of Directors while Eliminating Requirements for Membership: Refocusing CDC corporate governance requirements will reinforce the importance of board accountability for CDC oversight for the 504 loan program and set in place measures to strengthen oversight in order to maintain program integrity.
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