

3 Things to Know About MIOSHA Claims

If you are a business owner in Michigan, you are likely familiar with the Michigan Occupational Safety and Health Administration (MIOSHA) and its requirements. You might have experienced an unannounced inspection due to an employee complaint or an onsite accident, or you may have a routine inspection scheduled soon. Whatever your situation, below are some details that will help you prepare for future interactions with MIOSHA.

1. You Have Rights

As an employer and company owner, you are responsible for providing a healthy work environment for your employees. You are required to follow MIOSHA guidelines and provide safety training to your workers. But in addition to those requirements, you have rights.

After reviewing all the MIOSHA standards, you have the right to ask for variances or rule changes necessitated by your specific circumstances or experiences. You can also participate in the development and modifications of those rules.

If any of the rules are unclear or you need assistance with implementing them, you have the right to ask for education and training. These services are available through the MIOSHA Occupational Health and Occupational Safety Programs.

When a MIOSHA inspector arrives at your site, you are allowed to ask questions. If there has been a complaint, you can request to see the complaint. If you are accused of a violation, you can ask if that violation is still current at your site.

During an inspection, you have the right to accompany the inspector during the walkthrough and take notes. As part of the closing conference, you are allowed to ask questions about the investigator's findings.

After an inspection, you are allowed to contest citations, fines, and correction requirements. You must file appeals within 15 days of receiving the citation.

2. You Can Benefit from Good Recordkeeping

Per MIOSHA, you are required to keep records of all work-related injuries and accidents, as well as any employee exposure to dangerous chemicals. You must also report to MIOSHA any fatalities or catastrophes within eight hours of the incident (a "catastrophe" indicates that three or more workers were hospitalized due to the same accident).

In addition to these requirements, you should keep written records of the training your workers receive with dates and other pertinent details. It will also benefit you to keep records of safety hazards you have identified and rectified, as well as disciplinary actions you have taken for workers who have violated safety protocols. If you have a safety committee, keep meeting minutes and include the names of everyone in attendance.

Another important document is your employee handbook. Make sure it is updated regularly and distributed to every employee, with copies at every site. Of particular importance are sections on safety training, processes, and procedures.

If your company has implemented a written safety program, MIOSHA can apply "good faith credits" toward any fines. For such a program to be considered, you must document employee involvement, worksite analysis, management commitment to safety, hazard recognition, and health and safety training for employees.

Having these records on hand, in an organized and easily accessible manner, will go a long way in showing your dedication to

Continued on Page 2

Continued from Page 1

protecting your employees. During an inspection, investigators will want to see that you are keeping track of safety issues and actively exploring ways to correct them.

3. Your Citations and Fines Can Vary

After an inspection, the MIOSHA inspector will file a report with all the citations listed and send it to you by certified mail. That report will include the alleged violations, when corrections to the violations are due, and what monetary penalties you face.

If inspectors believe that working conditions on your site are likely to result in imminent physical harm or death, they can get approval to issue a “cease operation order.”

MIOSHA considers many factors when issuing citations and fines:

- How big your business is
- What previous citations are in your history
- How severe the violation is
 - Serious—one that could result in substantial harm or death
 - Other than serious—one that will likely not cause physical harm but threatens your worker safety
 - Failure to correct—one that was previously noted but you have not yet fixed
 - Willful—one that you knew about but chose not to correct
 - Repeat—one found during a second or subsequent inspection

Maximum penalties for willful and repeat citations are more than \$125,000, and you can be fined more than \$12,000 a day for issues you fail to correct. As you can see, once you receive a citation, it is critical that you take steps to rectify the problem. The longer you wait, the higher your fines can be.

If you need more information about your rights regarding MIOSHA regulations or need support in appealing citations, be sure to consult legal counsel. An attorney experienced in labor law can assist you in navigating the system and understanding your options.

Disclaimer: The information contained in this article is for general educational information only. This information does not constitute legal advice, is not intended to constitute legal advice, nor should it be relied upon as legal advice for your specific factual pattern or situation.

Cotney - Attorneys & Consultants is an advocate for the roofing industry and General Counsel of the National Roofing Contractors Association (NRCA). For more information, please visit www.cotneycl.com or call 866.303.5868.

Upcoming Industry Trade Shows 2021

Postponed until 2022	NERCA 94th Annual Convention & Trade Show Atlantic City, NJ www.nerca.org
June 9	Great Lakes Design and Construction Expo Novi, MI www.miconstructionexpo.com
Aug. 10-12	IRE Las Vegas, NV www.theroofingexpo.com
Sept. 15-20	2021 IIBEC International Convention and Trade Show Phoenix, AZ www.iibec.org

2021 SMRCA Golf Outing CANCELLED

The 2021 SMRCA Annual Golf Outing has been cancelled.

With much consideration, the SMRCA Golf Committee has decided to cancel the 2021 SMRCA Golf Outing due to the rise in Covid-19 cases.

The safety and well-being of our membership is our utmost concern. The SMRCA Golf Committee considered a fall outing but did not want to interfere with other events in the industry.

The SMRCA Golf Outing provided our members with an avenue for us to gather and network. We know everyone is looking forward to the day when we can get back together in person. We are hopeful that 2022 will allow us the ability to gather as everyone has been accustomed to in past SMRCA outings.

Fall Protection Remains OSHA's Most-Cited Violations

Danger from falls at construction sites remains the most frequently cited hazard on the Occupational Safety and Health Administration's list of most-cited violations for fiscal year 2020, which ended Sept. 30. Construction blog constructionjunkie.com shares a list of OSHA's top 10 construction-specific violations.

Other rules related to construction falls are among the top 10 violations, including scaffolding, ladders and training.

OSHA generally requires construction workers exposed to falls of 6 feet or more to wear protective gear, such as harnesses, or be protected by guardrails and trained regarding how to avoid falling.

Following are the top 10 most-cited violations in construction for fiscal year 2020:

1. Fall protection—general requirements: 4,134 violations
2. Scaffolding: 1,714 violations
3. Ladders: 1,575 violations
4. Fall protection—training requirements: 1,231 violations
5. Personal protective and lifesaving equipment—eye and face protection: 1,096
6. General safety and health provisions: 632 violations
7. Head protection: 578 violations
8. Specific excavation requirements: 525 violations
9. Aerial lifts: 448 violations
10. Fall-protection systems criteria and practices: 429 violations

Employers are reminded to post OSHA 300A

The Occupational Safety and Health Administration reminds employers of their obligation to post a copy of OSHA Form 300A that summarizes job-related injuries and illnesses logged during 2020.

Each year, between February 1 and April 30, the summary must be displayed in a conspicuous place or where notices to employees typically are posted. Businesses with 10 or fewer employees or those in certain low-hazard industries are exempt from OSHA record-keeping and posting requirements.

JATC Training Center

Journeyworkers upgrade classes to improve your skills, your worth, and our Brotherhood/Sisterhood is available at no cost to all Detroit LU 149 members.

Dues must be current in order to enter the Training Center.

If you are interested in any of these classes, contact Thomas Jaranowski at the Training Center, 248-543-3847, or TJaranowski@DetroitRoofers.org to make arrangements.

National Roofing Week 2021

National Roofing Week 2021 will be held June 6-12 to raise awareness of the significance of roofs to every home and business and share the industry's good deeds.

Organized by NRCA, National Roofing Week traditionally takes place during the first full week of June and promotes the importance of hiring a professional roofing contractor and making informed decisions about maintaining or replacing any roof system.

In celebration of National Roofing Week, NRCA will host the [We are Family Raffle](#), sponsored by A.C.T. Metal Deck Supply. Open to all NRCA member companies, the raffle involves companies taking a group photo of all employees—their roofing family—and submitting it to NRCA for a chance to win a prize.

NRCA also will be sharing its members' stories through its various social media outlets and Professional Roofing magazine. Members throughout the U.S. are encouraged to [share their stories](#) of charitable giving, crew and staff appreciation, and signature roofing projects with NRCA.

Additional National Roofing Week information and materials will be available during the coming months.

Visit the [National Roofing Week](#) page on NRCA's website.



Roofers Union Local #149/RIPF 36th Annual Scholarship Grant Program

In an effort to promote excellence in the roofing industry, Roofers Union Local #149 and the Roofing Industry Promotion Fund are working together to offer scholarship grants to eligible individuals.

The program offers four scholarship grants in the amount of \$1,000.00 each, to those eligible individuals who are attending or planning to enroll at an accepted college or university.

Scholarship Grants are possible through contributions by Roofers Union Local #149, the Roofing Industry Promotion Fund and the participating roofing contractor employer of the recipient's parent or guardian.

Information has been sent to SMRCA/RIPF Contractors. If you need information to submit an essay, please contact the SMRCA office or Roofers Union Local #149.



Congressional COVID-19 pandemic response. The American Rescue Plan, a \$1.9 trillion COVID-19 relief package, is expected to become law as early as this week. The House passed its version of the relief bill Feb. 27, and on March 6, the Senate passed its version under budget reconciliation rules, which allows passage by 51 votes, requiring no bipartisan support. Under these rules, the federal minimum wage provision was removed because it was ruled out of order. Although the provision was struck, the increase in the federal minimum wage to \$15 per hour does not have sufficient support to pass the Senate as a standalone bill. The Senate's bill also lowered the federal per-week unemployment benefit to \$300 per week from the \$400 per week passed by the House; extended the provision through Sept. 6; and provided tax relief on up to \$10,200 in unemployment benefits for households making under \$150,000. The final legislation also included \$1,400 direct payments to certain Americans, as well as funding for state and local governments, schools, COVID-19 testing, vaccine distribution and for small businesses hit hardest by the pandemic. This legislation is expected to pass the House soon and President Biden will likely sign the bill into law sometime this week.

Regulatory changes to the Paycheck Protection Program. On Feb. 22, President Biden announced [regulatory changes to the Paycheck Protection Program](#). Beginning Feb. 24 and ending March 9, only businesses with fewer than 20 employees will be allowed to apply for a PPP loan. The Biden administration also changed its loan calculating formula for sole proprietors, independent contractors and self-employed individuals to more easily secure forgivable loans. In addition, President Biden will remove restrictions on individuals with prior non-fraud felony convictions and individuals delinquent on their federal student loans, allowing them to be eligible to receive PPP funds. The interim final rule detailing these changes can be found [here](#). The Biden administration also is expected to issue guidance clarifying noncitizen small-business owners who hold green cards or are in the U.S. on a visa can obtain PPP loans. The PPP program expires March 31, and the newest COVID-19 relief bill provides additional funding for the program but does not extend the authorization.

Occupational Safety and Health Administration regulations. After issuing [revised guidance](#) for employers regarding how to protect employees from COVID-19 in the workplace Jan. 29, OSHA is expected to issue an Emergency Temporary Standard for COVID-19 workplace safety rules. Shortly after taking office, President Biden issued an Executive Order directing the agency to consider issuing an ETS, which is supported by the AFL-CIO and other organizations. NRCA joined other industry groups in the Construction Industry Safety Coalition in sending a detailed [letter](#) to OSHA officials, which urges the agency to not implement an ETS for COVID-19 and offers the construction industry's perspective regarding how this would be counterproductive to protecting workers during the pandemic. Additional resources regarding how contractors can better protect

employees from contracting COVID-19 in the workplace can be found in the OSHA section of NRCA's [COVID-19 Resources for Roofing Contractors page](#).

Immigration reform introduced in Congress. President Biden's immigration reform proposal, the U.S. Citizenship Act of 2021, was formally introduced by Sen. Robert Menendez (D-N.J.) in the Senate and Rep. Linda Sanchez (D-Calif.) in the House. If enacted, the legislation would provide permanent legal status and eventually a path to citizenship for qualifying undocumented individuals, including those currently enrolled in the Deferred Action for Childhood Arrivals program, certain farmworkers and others among the estimated 11 million undocumented individuals who have been working in the U.S. for many years. The bill also would extend permanent legal status and an opportunity to obtain citizenship to individuals working legally in the U.S. under Temporary Protected Status, many of whom work in the roofing industry. Congressional Democrats hope to move forward with consideration of the bill in its entirety or by breaking it up into various components considered separately. However, it is questionable whether the votes to pass the legislation exist given a lack of bipartisan support. Additionally, House Democrats introduced the Dream and Promise Act (H.R. 6), which deals solely with individuals with DACA and TPS status and passed the House in 2019 but stalled in the Senate during the previous Congress because of Republican opposition.

NRCA virtual auction to support ROOFPAC closes Thursday—get your bids in now! NRCA members can support ROOFPAC, the voice of the roofing industry in Washington, D.C., by bidding on luxury items and vacations during NRCA's popular ROOFPAC silent auction, happening now at www.roofpac21.givesmart.com. You also can text ROOFPAC21 to 76278. NRCA members can bid on great deals, including fantastic trips, jewelry and electronics. It is simple to sign up, and you will be entered to win a FREE pair of Apple AirPods Pro just for registering! The silent auction opened virtually March 3 and closes at 4 p.m. EST March 11. For more information about our virtual silent auction, please contact NRCA's Washington, D.C., office, at (800) 338-5765 or by email at advocacy@nrca.net.

State tax information regarding Paycheck Protection Program taxes and deductibility. One of NRCA's largest advocacy wins of 2020 was helping to shepherd the passage of legislation that ensured expenses paid with forgiven PPP loan funds were fully tax-deductible at the federal level. Although relief has been provided at the federal level, PPP loans still are eligible for taxation in some states. Currently, Arkansas, California, Florida, Maine, New Jersey and Ohio are considering legislation to address this issue. NRCA encourages you to visit [the Tax Foundation](#) for additional state-specific information about PPP loans and taxation.

Department of Labor Guidance regarding "unsafe" work and unemployment insurance. On Feb. 25, the Department of Labor's Education and Training Administration released guidance to clarify instances in which workers can refuse "unsafe" working conditions and continue to qualify for unemployment insurance benefits. [UIPL](#)

16-20 Change 5 states individuals now will qualify for Pandemic Unemployment Assistance if they were previously denied unemployment insurance benefits because they refused employment at a worksite that was not complying with COVID-19 safety protocols. Pandemic Unemployment Assistance benefits currently are set to expire March 14, but the American Rescue Plan—legislation proposed by President Biden to provide additional COVID-related assistance now pending before Congress—would extend these benefits through August if enacted.

IRS releases guidance regarding the Employee Retention Tax Credit. On March 1, the IRS released **Notice 2021-20**, providing guidance to employers claiming the Employee Retention Tax Credit for qualified wages paid in 2020 and how it relates to eligibility for the Paycheck Protection Program. For 2020, the employee retention credit can be claimed by employers who paid qualified wages after March 12, 2020, and before Jan. 1, 2021, and experienced a full or partial suspension of their operations or significant decline in gross receipts. The credit is equal to 50% of qualified wages paid, including qualified health plan expenses, for up to \$10,000 per employee in 2020. The maximum credit available for each employee is \$5,000 in 2020. A significant change for 2020 permits eligible employers who received a PPP loan to claim the employee retention credit, though the same wages cannot be counted for both seeking forgiveness of the loan and calculating the employee retention credit.

Expansion of government-mandated project labor agreements. NRCA recently signed a coalition **letter** to express opposition to government-mandated project labor agreements as provided in the Department of Transportation's fiscal year 2021 Infrastructure for Rebuilding America grant program. This is the first instance of the Biden administration expanding government-mandated PLAs. During 2009, the Obama administration issued an Executive Order, which *encouraged* federal agencies to require PLAs on federal construction projects on a case-by-case basis but did not involve a sweeping mandate. The Trump administration largely kept this policy in place. The letter outlines concerns with mandated PLAs and requests a meeting with administration officials to discuss the issue further. NRCA will continue to follow this federal policy closely.

If you have any questions or would like more information regarding any of the issues discussed here, please contact NRCA's Washington, D.C., office at 800-338-5765.



NRCA Provides Updated Waterproofing Manual

The NRCA Waterproofing Manual—2nd Edition includes important new information addressing the design and installation of quality waterproofing assemblies.

This update to *The NRCA Waterproofing Manual* provides you with the latest information about proper design; quality materials and workmanship; water stops; warranties; material storage and handling; weather considerations; slope and drainage; flashings and more. It is intended to complement The NRCA Roofing Manual Set and should be used as a guideline to prepare proper specifications.



Visit NRCA.net for more information.

Birthday Wishes



Bill Borgiel - Lutz Roofing Company

April 25

Jim Markiewicz - GAF Materials Corporation

April 29

Mark Stasa - Kerr Russell & Weber PLC

May 7

Judd Crane - Crane Roofing, Inc.

June 20

Mike Mass - Roofing Products of Michigan, Inc.

July 23

Marie Schena - Schena Roofing & Sheet Metal Co., Inc.

July 31

Happy Anniversary



Jim & Michele Bieszki - Architectural Building Specialties, Inc.

June 4

Todd & Amanda Sova - National Roofing & Sheet Metal Co., Inc.

June 6

Heather & Chris Hadley - SMRCA

June 29

SMRCA Spells the Best in Roofing Services

- S**AFETY A safe jobsite is assured because SMRCA crews complete the M.U.S.T. Safety Training and Drug Testing.
- M**ULTIPLE SERVICES A SMRCA Roofing Contractor has the ability to provide the roof you need because of our expertise in a variety of roofing applications and techniques.
- R**ELIABLE SMRCA Contractors are Union trained professionals bringing an Industry leading standard of service, quality and knowledge to every project.
- C**ONFIDENCE Projects completed by SMRCA Contractors provide a Michigan roofing contractor 2 year standard workmanship warranty.
- A**CCOUNTABILITY SMRCA Contractors are established companies with years of experience in providing responsive service, superior workmanship and exceptional value.

Call us today at 586-759-2140 to receive our free "Roofing Facts" brochure or contact one of the SMRCA Contractors below for a no-cost estimate on your next roofing project.

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www.tfbeck.com

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ROYAL ROOFING COMPANY

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(248) 276-ROOF (7663)
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J. D. CANDLER ROOFING CO., INC.

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www.morssroofing.com

SCHENA ROOFING & SHEET METAL CO., INC.

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(586) 949-4777
www.schenarroofing.com

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(248) 332-3021
www.newtoncraneroofing.com

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(248) 926-1500
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DETROIT CORNICE & SLATE COMPANY

Ferndale, MI
(248) 398-7690
www.detroitcorniceandslate.com

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Auburn Hills, MI
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