

Ohio Bureau of Workers Compensation Reclassifies Solar Installation Risk

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The Ohio Bureau of Workers' Compensation (OBWC) has recently changed its classification of solar installation activities for companies in the business of marketing and installing solar systems for commercial, industrial and residential purposes. Previously, OBWC classified solar installation under the "manual classification," as promulgated by the National Council on Compensation Insurance (NCCI), electrical wiring workers (manual No. 5190). However, following an audit in the spring of 2011, one solar installer received notice that its employees would be reclassified, resulting in a potential increase of premiums of more than *450 percent*.

After consulting with NCCI, the OBWC stated that the installer's workers' payroll who mount solar panels on posts that have been bolted onto a concrete pad or runway, or onto metal studs that have been pile-driven into the ground, must be reported to manual classification "machinery or equipment erection or repair NOC and drivers (3724)." Those who do subsequent wiring and running conduit from the panels must have their payroll reported to "electrical wiring within buildings and drivers (5190)" and "conduit construction for cables or wires and drivers (6325)."

Those who set ballast concrete blocks on flat roofs with metal racks and frames to attach to the panel must have their payroll reported to "roofing-all kinds and drivers (5551)" and those who do the wiring that runs to the inside of the building to inverters must have their payroll reported to electrical wiring (5190)." Finally, those who provide residential roof installation, including installing reinforcements in an attic, fastening panels with aluminum clips to the roof and using lifts to hoist and install panels, must also report to "roofing-all kinds and drivers (5551)" and those running wire to the inverter, panel and meter must have either payroll reported to "electrical wiring (5190)."

Not only does such a reclassification give rise to a significant increase in workers' compensation premiums, it could create additional administrative burden because installers must now segregate the wages of employees into the various manual classifications according to the nature of the work the employees are doing at any given time.

This particular employer subject to audit has begun its appeal of the reclassification to the OBWC with a thorough explanation as to why it believes the OBWC has incorrectly reclassified its field employees. If the OBWC rejects its explanation, the installer may then appeal the OBWC's decision to the OBWC's Adjudicating Committee, which hears such appeals administratively. Bricker & Eckler will continue to monitor the appeal so that the industry can be informed of its outcome and plan for its impact.

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