

U.S. Department of Labor issues regulatory agenda for 2013

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On December 21, 2012, the U.S. Department of Labor issued a long-awaited list of current regulatory activity. The agenda is a listing of all the regulations the agency expects to have under active consideration for promulgation, proposal, or review during the coming six to twelve months. The list includes numerous OSHA regulations, which are listed below.

The list, along with links to the regulations themselves, can be found at the website of the Office of Information and Regulatory Affairs at the Office of Management and Budget:

http://www.reginfo.gov/public/do/eAgendaMain?operation=OPERATION_GET_AGENCY_RULE_LIST¤tPub=true&agencyCode=&showStage=active&agencyCd=1200&Image58.x=67&Image58.y=15.

[*Editor's note:* The number listed with each subject below is the RIN, which stands for "Regulation Identifier Number." This is a number assigned by the federal Office of Management and Budget's electronic docketing system to identify each regulatory action listed in the Unified Agenda. OMB has asked agencies to include RINs in the headings of their Rule and Proposed Rule documents when publishing them in the Federal Register, to make it easier for the public and agency officials to track the publication history of regulatory actions. All listing below are from the U.S. Department of Labor/OSHA.]

Stage	Regulation	RIN #
Prerule	Combustible Dust	1218-AC41
Prerule	Infectious Diseases	1218-AC46
Prerule	Injury/Illness Prevention	1218-AC48
Prerule	Reinforced Concrete in Construction & Preventing Backover Accidents	1218-AC51

Prerule	Review/Lookback of OSHA Chemical Standards	1218-AC74
Proposed Rule	Occupational Exposure to Crystalline Silica	1218-AB70
Proposed Rule	Occupational Exposure to Beryllium	1218-AB76
Proposed Rule	Bloodborne Pathogens	1218-AC34
Proposed Rule	Improve Tracking of Workplace Injuries and Illnesses	1218-AC49
Proposed Rule	Revising the Underground Construction and Demolition Standards To Make the Cranes and Derricks in Construction Rule Applicable to Those Activities	1218-AC61
Proposed Rule	Standards Improvement Project IV	1218-AC67
Proposed Rule	Cranes and Derricks in Construction: Revision to Digger Derricks' Requirements	1218-AC75
Proposed Rule	Approved State Plans for Occupational Safety and Health	1218-AC76
Proposed Rule	Consensus Standard Update-- Signage	1218-AC77
Proposed Rule	Revocation of Periodic Records	1218-AC80
Final Rule	Confined Spaces in Construction	1218-AB47
Final Rule	Electric Power Transmission and Distribution; Electrical Protective Equipment	1218-AB76
Final Rule	Walking Working Surfaces and Personal Fall Protection Systems (Slips, Trips, and Fall Prevention)	1218-AB80
Final Rule	Cooperative Agreements	1218-AC32

For further information about any of the regulations under consideration for action by OSHA over the coming six to twelve months, go to the web address provided here in paragraph two, and then click on the RIN number.

Final Rule	Procedures for Handling Employee Retaliation Complaints Under the National Transit Systems Security Act; Surface Transportation Assistance Act; and Federal Railroad Safety Act	1218-AC36
Final Rule	Occupational Injury and Illness Recording and Reporting Requirements--NAICS Update and Reporting Revisions	1218-AC50
Final Rule	Procedures for Handling Retaliation Complaints Under Section 806 of the Corporate Criminal Fraud Accountability Act 2002, as Amended	1218-AC53
Final Rule	Procedures for the Handling of Retaliation Complaints Under The Consumer Financial Protection Act; The Seaman's Protection Act; and FDA Food Safety Modernization Act	1218-AC58
Final Rule	Vertical Tandem Lifts	1218-AC7
Final Rule	Procedures for the Handling of Retaliation Complaints under Section 1558 of the Affordable Care Act of 2010	1218-AC79

employee training. \$0

FISCHBACH USA

900 Peterson Dr., Elizabethtown

Inspection site: 900 Peterson Dr., Elizabethtown

9-7-12

\$53,650

Willful Serious

- Screen printer was not properly guarded; nozzler/conveyor system was not properly guarded. \$44,100

Serious

- Employer did not develop and utilize lockout/tagout procedures for employees changing belts on screen printing press. \$6,300

Other

- Employer did not properly maintain OSHA 300 logs for 2007-2011, and the 300-A logs from 2009 had errors. \$3,250

CITATIONS & FINES

Below is a listing of the citations and fines issued by the Kentucky Occupational Safety and Health agency during the month of September 2012. Provided here are summaries of the citations and the total amount of the fines. A company has 15 working days from receipt of the citations and proposed penalties to either elect to comply with them, to request and participate in an informal conference with the KYOSH area director, or to contest them before the independent Occupational Safety and Health Review Commission.

JOHN PONCE

DBA PONCE CONSTRUCTION AND REPAIR

3332 Valhalla Dr., Lexington

Inspection site: Park East, 158 Louie Place, Lexington

9-7-12

\$99,400

Willful Serious

- Ten employees were working on roof at least 27 feet above ground with no fall protection. \$70,000

Repeat Serious

- Employees were not properly trained on fall hazards and fall-arrest equipment that was provided; employer did not address inadequacies in employees' understanding of fall hazards and equipment use. \$21,000
- Extension ladder did not extend at least three feet above upper landing surface, and ladder was not secured to a rigid support. \$8,400

Other

- Employer did not have written certification or record of

FRANCIS GAINES ROOFING

208 Hahn Dr., Frankfort

Inspection site: Evergreen Road, Frankfort

9-7-12

\$22,400

Willful Serious

- Four employees were working on roof at least nine feet above ground with no fall protection. \$19,600

Serious

- Four employees were not properly trained on fall hazards. \$2,800

CITY OF MANCHESTER

PUBLIC WORKS DEPARTMENT

123 Town Square, Manchester

Inspection site: Junction of Highways 421 and Old 421, Manchester

9-19-12

\$21,700

Serious

- Employees were working in a trench without cave-in protection; trench collapsed, resulting in employee's death. \$4,900
- The competent person used benching in wet soil in designing the trench, which was not appropriate for the conditions. \$4,900
- Employee working in trench was not wearing a hard hat. \$4,900

Other

- Employer did not retain OSHA 300 logs nor OSHA 300A logs for 2007-2011. \$7,000

JASON MICHAELS DBA PRIME VENTURES

P.O. Box 1068, Folsom, La.

Inspection site: 1300 Morgantown Road, Russellville

9-6-12

\$21,000**Serious**

- Employer did not provide PPE, including leggings or chaps, resulting in third-degree burns for one employee; employer did not assess workplace for hazards, including fire hazards, during torching process. \$3,500
- Host employer did not perform initial air monitoring for airborne lead for employees and subcontractor employees who were cutting scrap metal for recycling. \$3,500
- Employer did not inform employees, who were exposed to lead, about the content of Appendices A and B. \$3,500
- Employer did not develop, implement and maintain a written hazard communication program. \$3,500
- Employer did not properly train employees on hazards in their work areas, including fire hazards of fluids and oils. \$3,500

Other

- Employer did not report employee's hospitalization within 72 hours. \$2,500
- No one at worksite was trained to render first aid; first aid supplies were not readily available. \$1,000

ANTHONY ANGLIN DBA QUALITY CLEANERS

133 Plaza Dr., Berea

Inspection site: 101 Clay Dr., Berea

9-17-12

\$20,500**Serious**

- Emergency shower or eyewash was not available to employees using corrosive chemicals, including those containing sodium hydroxide and ammonium hydrogen difluoride. \$3,500
- Employer did not determine whether PPE was required for employees using corrosive chemicals; employees using corrosive chemicals were not using face or eye protection; employees were not wearing hand protection. \$3,500
- Steam pipes not insulated or properly guarded and were within three feet of where employees worked in the room. \$3,000
- Employer did not have written hazard communication program. \$3,500
- MSDS were not readily available at worksite. \$3,500
- Employer did not properly train employees and new hires on hazards of chemicals in their work areas. \$3,500

CUMBERLAND RECYCLING GROUP

P.O. Box 54, Russellville

Inspection site: 1300 Morgantown Road, Russellville

9-6-12

\$17,500**Serious**

- Employer did not provide and require PPE, including leggings or chaps, resulting in third-degree burns for one subcontractor employee; employer did not assess workplace for hazards, including fire hazards, during torching process. \$3,500
- Employer did not perform initial air monitoring for airborne lead for employees and subcontractor employees who were cutting scrap metal for recycling. \$3,500
- Employer did not inform subcontractor employees, who were exposed to lead, about the content of Appendices A and B. \$3,500
- Employer did not develop, implement and maintain a written hazard communication program; employer did not train employees on hazards chemicals in their work areas. \$3,500

Other

- Employer did not report subcontractor employee's hospitalization within 72 hours. \$2,500
- No one at worksite was trained to render first aid; first aid supplies were not readily available. \$1,000

MARTINREA HOPKINSVILLE

1500 Frank Yost Lane, Hopkinsville

Inspection site: 1500 Frank Yost Lane, Hopkinsville

9-19-12

\$14,000**Serious**

- Employees were working on top of cool off tunnel at least 10 feet above ground with no fall protection. \$7,000
- Wire stand platform did not have standard railings on all open sides. \$7,000

Other

- Mezzanine platform was not kept clean and orderly; another platform had trip hazards, such as pipe rollers, hoses and rags, on the floor. \$0
- Conduits housing 480-volt conductors was not closed and secured. \$0

GREENTREE FOREST PRODUCTS

746 Muses Mill Road, Wallingford

Inspection site: 746 Muses Mill Road, Wallingford

9-19-12

\$12,600**Serious**

- Operating treadle on cut-off saw was not properly protected to prevent tripping; employee tripped into saw and suffered a

severe laceration. \$4,200

- Cut-off saw was not properly guarded. \$4,200
- Four first responders had not had hepatitis B vaccine made available after they were exposed to human blood. \$4,200

BRUCE GREEN BUILDING CONTRACTORS

P.O. Box 204, Murray

Inspection site: Industrial Drive, Marion

9-7-12

\$10,500

Serious

- Personnel platform was not firmly secured to forks of forklift. \$3,500
- Competent person did not inspect personnel platform prior to use; railing system was bent and cracked; personnel platform was not erected under supervision of competent person. \$3,500
- Personnel platform had an open side, exposing employee to 18-foot fall; employee was not properly trained on scaffold/platform safety. \$3,500

DESIGNER MARBLE

DBA DESIGNER TILE AND STONE

731 Werne Dr., Lexington

Inspection site: 731 Werne Dr. Lexington

9-27-12

\$10,500

Serious

- Granite slab storage area was not kept clean and clear, causing forklift operator to approach storage racks from an unsafe angle; slabs of granite toppled onto another employee, causing head and leg injuries. \$3,500
- Employer could not verify forklift operator's training and proficiency to operate forklift. \$3,500
- Forklift with defective horn was not taken out of service and was involved in accident in which an employee was injured. \$3,500

ABEL HERNANDEZ

3220 Second St., Appleton, Wis.

Inspection site: 6808 Copra Lane, Louisville

9-20-12

\$9,500

Serious

- Nine employees were working on roof at least 10 feet above ground with no fall protection. \$3,500
- Employees had not been properly trained in fall protection. \$3,500
- Extension ladder did not extend at least three feet above landing surface and was not secured; extension ladder piece being used alone did not have feet. \$2,500

DAVE WATSON

DBA ANYTIME ROOFING AND SIDING

4814 Preston Hwy., Louisville

Inspection site: 6808 Copra Lane, Louisville

9-19-12

\$9,500

Serious

- Nine employees and subcontractor employees were working on roof at least 10 feet above ground with no fall protection. \$3,500
- Employees and subcontractor employees had not been trained in fall protection. \$3,500
- Extension ladder did not extend at least three feet above the landing surface and was not secured; ladder did not have feet. \$2,500

3M COMPANY

1308 New Lair Road, Cynthiana

Inspection site: 1308 New Lair Road, Cynthiana

9-20-12

\$7,000

Serious

- At least eight conveyors were not properly guarded; employee suffered partial amputation from inadequately guarded nip point on conveyor. \$7,000

JOE LANDEROS

6206 Richie Wayne Dr., Louisville

Inspection site: 117 Erin Circle, Mt. Washington

9-27-12

\$7,000

Serious

- Two employees were working on a steep roof at least 10 feet above ground with no fall protection. \$3,500
- Two employees were working on a low-slope roof at least 10 feet above ground with no fall protection. \$3,500

MICHAEL HOUSE

DBA DERBY CITY AMUSEMENTS

157 Cadenze Court, Louisville

Inspection site: South Greensburg Street, Hodgenville

9-27-12

\$7,000

Serious

- Employees were working beneath overhead power lines not de-energized or rendered safe, and employee made contact with the energized line, causing severe burns and trauma. \$3,500
- Unqualified person was working within close proximity to energized overhead power line. \$3,500

Other

- 110-volt junction box was missing a cover. \$0

FREDERICK & MAY CONSTRUCTION CO.

P.O. Box 337, West Liberty

Inspection site: 29 River Bend Dr., Louisa

9-27-12 \$5,600

Serious

- Guardrails around two large floor openings were insufficient to withstand 200 pounds of pressure. \$5,600

LESCO DESIGN AND MANUFACTURING CO.

1120 Fort Pickens Road, LaGrange

Inspection site: 2000 Fern Valley Road, Louisville

9-27-12 \$4,200

Serious

- Employer did not utilize lockout pins for right angle table transfer frame, resulting in serious injury to employee. \$4,200

**BEST CHOICE ROOFING
AND HOME IMPROVEMENT**

224 Old Shackle Island Road, Hendersonville, Tenn.

Inspection site: 1638 Meadowthorpe Ave., Lexington

9-19-12 \$3,500

Serious

- Five employees were working on roof at least nine feet above ground with no fall protection. \$3,500

JOSE DANILO DBA JOSE DANILO

1340 Alexandria Dr., Lexington

Inspection site: 950 Stoney Creek, Frankfort

9-19-12 \$3,500

Serious

- Three employees were working on roof at least 16 feet above ground with no fall protection. \$3,500

**MANUEL SANDODAL
DBA MANUEL SANDODAL**

163 Raintree Dr., Eminince

Inspection site: 569 Dover Court, Frankfort

9-19-12 \$3,500

Serious

- Six employees were working on roof at least 13 feet above

ground with no fall protection. \$3,500

**ODILON VILCHIS BARCENAS
DBA ODILON VILCHIS BARCENAS**

1805 Buckey Lane, Round Rock, Texas

Inspection site: 246 Willowood Dr., Mt. Washington

9-7-12 \$3,500

Serious

- Employees were working on roof at least 10 feet above ground with no fall protection. \$3,500

RHINO CONSTRUCTION

43 Thomas Lane, Taylorsville

Inspection site: 246 Stone Creek Court, Mt. Washington

9-7-12 \$3,500

Serious

- Six employees were working on roof at least six feet above a lower level with no fall protection. \$3,500

**KENTUCKY EASTER SEAL SOCIETY
DBA CARDINAL HILL**

2050 Versailles Road, Lexington

Inspection site: 2050 Versailles Road, Lexington

9-27-12 \$3,250

Other

- Employer did not report employee's finger amputation from table saw within 72 hours. \$3,250

COMMONWEALTH COMPUTER RECYCLING

P.O. Box 1613, Louisville

Inspection site: 1361 S. 15th St., Louisville

9-10-12 \$1,500

Serious

- Employees were not properly trained on hazards of exposure to lead; employer did not have written hazard communication program that addressed hazards of chemicals, including lead and cadmium. \$1,500

Other

- Employer did not provide information in Appendix D to employees voluntarily wearing dust masks. \$0

**BROWN FORMAN CORP.
DBA BLUE GRASS COOPERAGE**

402 MacLean Ave., Louisville
 Inspection site: 402 MacLean Ave., Louisville
 9-7-12 \$0

Other

• Written emergency action plan did not contain procedures for boiler operators to follow in an emergency. \$0

CENTURY ALUMINUM OF KENTUCKY
 P.O. Box 500, Hawesville
 Inspection site: 6127 State Route 271 North, Hawesville
 9-27-12 \$0

Other

• Maintenance supervisor using respirator was not medically approved for respirator usage. \$0
 • Entry permit did not identify purpose of entry. \$0
 • Entry permit did not identify means for summoning the onsite rescue team. \$0
 • Written hazard communication program did not include information on how employer will inform employees of hazards of non-routine tasks. \$0

LEXINGTON TREE SERVICE
 1113 Winchester Road, Lexington
 Inspection site: 1781 Headley Green, Lexington
 9-27-12 \$0

Other

• Employer required employees to purchase fall protection and other PPE, but regulations require employers to furnish PPE at no cost to employees. \$0

SCORE 451 SPORTS
DBA UMP-ATTIRE.COM
 3600 Chamberlain Lane, Suite 110, Louisville
 Inspection site: 3600 Chamberlain Lane, Suite 110, Louisville
 9-12-12 \$0

Other

• Exit door was blocked by table placed on its side. \$0

A study worth downloading

The National Institute for Occupational Safety and Health (NIOSH), through its “total worker health program,” has issued a paper that reviews the evidence on why employers should promote wellness in the workplace. To download the paper, “*The Research Compendium: The NIOSH Total Worker Health Program: Seminal Research Papers 2012*,” go to <http://www.cdc.gov/niosh/docs/2012-146/>.

WATCHFUL EYE ON WASHINGTON

Solis’ letter to Department of Labor employees announcing resignation barely mentioned OSHA

The day that U.S. Labor Cabinet Secretary Hilda Solis announced that she was resigning and would not head the cabinet during President Obama’s second term, she distributed a 756-word statement to all employees in the department. In the January 9 letter, she praised the president for his work in getting “Americans back to work”; she praised the employees for the passion they bring to their work, noted that 1.7 million Americans have completed federally funded job training programs during her tenure; she boasted of the department’s role in “crafting regulatory actions to implement key aspects of the Affordable Care Act (Obama Care)”; she mentioned the work employees did in helping businesses “see the value of hiring returning military members”; and she highlighted, in 94 words, the work the department did in collecting back wages. She never mentioned OSHA by name, but used 38 words in reference to it, saying, “And I am particularly proud to say that, as a result of our enforcement efforts, we have saved workers’ lives. Calendar year 2011 saw the fewest-ever mine fatalities. Fatalities in general industry and construction are at historic lows.”

OSHA issues inspection plan to reduce injuries and illnesses at high-hazard workplaces

Under its Site-Specific Targeting 2012 program, OSHA directs enforcement resources to workplaces where the highest rates of injuries and illnesses occur. On Jan. 8, 2013, OSHA issued its annual inspection plan. The program applies to high-hazard, non-construction workplaces that have 20 or more workers. The plan is based on data collected from a survey of 80,000 establishments in high-hazard industries.

Secretary Solis’ swan song? Mine safety

Coal mining is one of Kentucky’s major industries, but is not regulated under Kentucky’s state OSHA plan. Instead, mining is regulated by MSHA (Mine Safety and Health), which, like OSHA, is a U.S. Department of Labor agency.

ABC News reports that just over a week after DOL Secretary Hilda Solis announced her resignation, it appears that her final act will be the toughening of American mine safety rules.

The final rule will allow MSHA to issue POV (pattern of violation) notices without first issuing a *potential* POV notice. And it also establishes general criteria to identify mines with patterns of violations and emphasizes mine operators’ responsibility in monitoring their own mine’s compliance with federal regulations.

The final rule revises the Federal Mine Safety Act of 1977. In the 33 years since, no mine — until 2011 — was placed on POV status. In 2011, MSHA set up an online system where mine owners, miners and citizens could monitor the safety of particular mines. The final rule will continue that resource.▲