

Week of **May 12, 2014**

## OSHA's Regulatory Agenda Set to Become Even More Active

As we get deeper into the second term of President Obama, OSHA's regulatory agenda is picking up steam. With the first term focused mainly on increasing enforcement, regulatory initiatives often took a back seat to other initiatives. Rules that were announced as Agency priorities – such as OSHA's combustible dust rulemaking and the Injury Illness Prevention Program ("IIPP") rulemaking – seemed stuck within the halls of the Department of Labor or at the Office of Management and Budget.

Despite this, it seems as though the Agency was busy behind the scenes finalizing its own work on several major rules impacting employers across the country. We are now starting to see those rules published either as proposed or final Agency regulatory actions. Just in the last few months, OSHA has published controversial proposals regulating crystalline silica in the workplace and requiring many employers to submit to OSHA their injury and illness logs on a quarterly basis, which the Agency will then post on the internet. OSHA also just finalized a rule revising its safety standards for electric power generation, transmission, and distribution. This rule had been under development for over a decade.

By historical standards, this recent flurry of activity on the regulatory front is noteworthy. However, it is likely that we will see even more regulatory initiatives proposed or finalized over the next few months. OSHA is looking to finalize a rule that would require employers to affirmatively report to OSHA amputations that occur at the worksite, along with the overnight hospitalization of one employee (instead of the current requirement for reporting for the overnight hospitalization of three or more employees). Another rule that we could see move involves new health requirements for beryllium.

"All stakeholders need to keep an eye on these new initiatives," remarks Donna Pryor, a Shareholder in Jackson Lewis' Workplace Safety and Health practice group. "Where at first OSHA's efforts with respect to new rules and regulations lagged behind its enforcement programs, that does not now seem to be the case."

Stay tuned – there is most assuredly more to come!



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## MSHA to Use All Means to Curb Fatality Trend

The Mine Safety and Health Administration (MSHA) has told representatives of the non-coal sector of mining that it will use every means at its disposal to reverse a trend in which 19 miners have been killed over the last seven months. Eleven of those deaths occurred since the first of the year.

Calling the rise in fatalities in the Metal/Non-Metal (M/NM) sector "disturbing," MSHA Assistant Secretary Joe Main said, "We plan to engage all of our tools: enforcement, education and training, and technical support to respond to this trend."

The agency's review of the fatal accidents has led it to conclude that shortcomings exist in the quality of mining training and in miners' safety examinations of their workplaces. "MSHA will be paying close attention to these deficiencies, as well as the types of hazards and conditions that have led to these deaths, during mine inspections," Main warned.

MSHA arranged the stakeholders' meeting to call attention to the problem. At the session, the agency reviewed 18 M/NM fatalities that have occurred since October 1, 2013. The death of a Nevada gypsum mine

co-owner May 1, who was killed in a vehicle tip over accident, was excluded because MSHA's summary extended only through April 30.

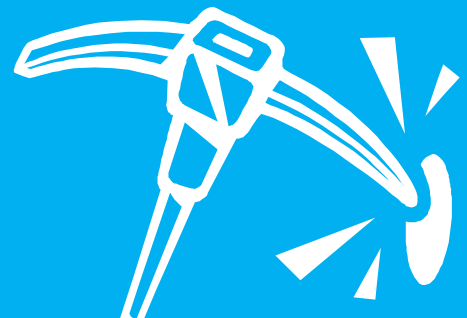
The deaths have occurred at crushed stone, sand and gravel, silver, cement, lime, gold, granite, clay and iron ore mining operations in 12 states across the country. Six deaths occurred at underground mines and 12 at surface mines. Two double-fatality accidents occurred at mines employing more than 100 workers. Five supervisors and six miners/laborers were among those who died. Four of the fatalities were contract workers.

Nine coal miners also have perished over the seven-month period. Of the three killed this year, two died in machinery accidents and the third victim, a 20-year-old laborer, died when he was struck by a feeder.

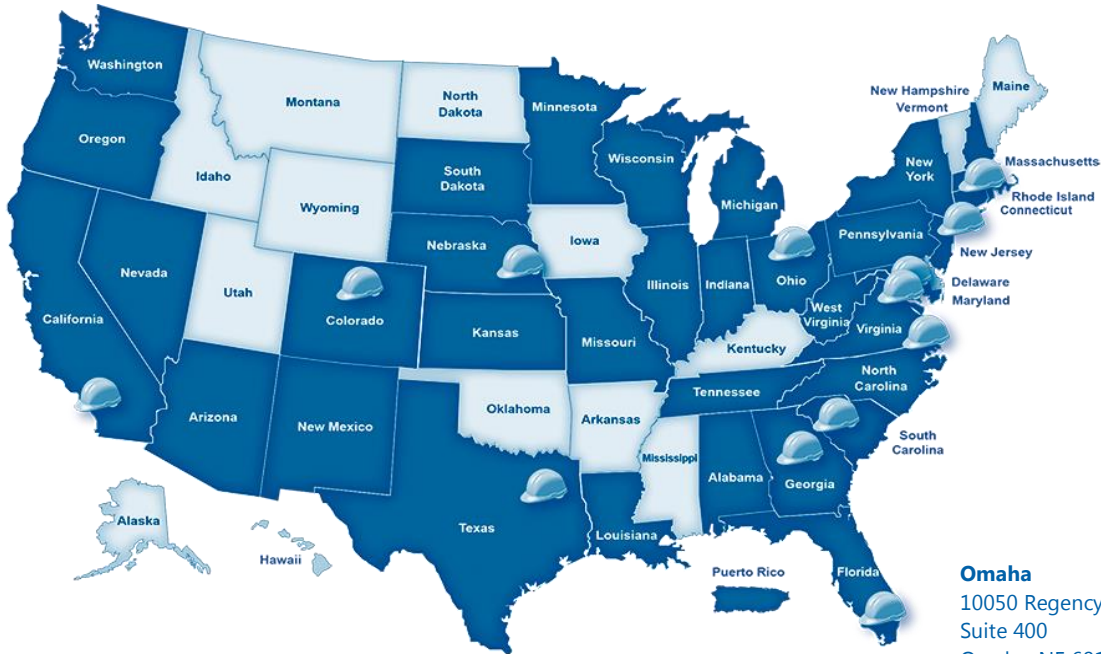
MSHA identified 14 standards among the six fatal M/NM accidents it has investigated so far that contributed to the incidents, including two involving task training. Eight of the standards are part of the agency's "Rules to Live By" fatality prevention program.

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