

Week of **December 16, 2013**

OSHA Seeks Comments on Process Safety Management (PSM), Other Standards

In the wake of a deadly explosion earlier this year, OSHA is asking for input on updating several standards, including the agency's process safety management (PSM) regulation. Comments are due by March 10, 2014.

In a 13-page request for information (RFI), posted in the *Federal Register* on December 9, OSHA asked for information and data on specific rulemaking and policy options related to modernizing the standards to prevent major chemical accidents. Besides PSM, those standards involve explosives and blasting agents, flammable liquids, spray finishing materials and associated enforcement practices.

The RFI seeks answers to 85 sets of questions on 17 issues OSHA has identified as possible candidates for rulemaking or enforcement policy changes. Most deal specifically with the PSM standard and include updating a list of highly hazardous materials and adding more management-system requirements. Other questions concern expanding the scope of the standard to include reactivity hazards,

mechanical integrity of safety-critical equipment and dismantling and disposing of explosives, blasting agents and pyrotechnics. In addition, OSHA wants input on requiring third-party compliance audits.

The initiative is driven by Executive Order 13650, issued by the President in August. That directive was spurred, in turn, by a fire and explosion at the West Fertilizer Co. ammonium nitrate storage and distribution facility in Texas in April that killed at least 15 people, including many firefighters. The facility was not covered by PSM. However, "it is a stark example of how potential modernization of the PSM standard may include such facilities and prevent future catastrophe," OSHA said in the RFI.

Companies covered by any of the standards under possible review should consider submitting comments. Defining a position is helpful to OSHA in any rulemaking and could be important should there be litigation over a subsequent agency proposal.



Be sure to subscribe to Jackson Lewis' OSHA Law Blog!
Visit www.oshalawblog.com to sign up!

Whistleblowers Given Online Option to File Complaints

Employees covered by any of 22 whistleblower statutes administered by OSHA can now file their complaints with the agency online.

The five-part online form prompts workers to include basic whistleblower complaint information so they can be contacted easily for follow-up. Complaints are routed automatically to the appropriate regional whistleblower investigators. The form is downloadable and can be submitted in hard-copy format by fax, mail or hand delivery.

"The ability of workers to speak out and exercise their rights without fear of retaliation provides the backbone for some of American workers' most essential protections," OSHA Assistant Secretary Dr. David Michaels said.

"Whistleblower laws protect not only workers, but also the public at large and now workers will have an additional avenue available to file a complaint with OSHA."

The online option supplements current procedures for filing, such as preparing a non-electronic written complaint and calling an OSHA office or a hotline number.

All we do is work.® Workplace Law.

With 765 attorneys practicing in 54 locations throughout the U.S. and Puerto Rico, Jackson Lewis provides creative and strategic solutions to employers in every aspect of workplace law. Recognized as the **2014 Law Firm of the Year** in the category of Litigation - Labor & Employment, and **ranked in the First Tier nationally** in the categories of Employment and Labor Law on behalf of Management in *U.S. News - Best Lawyers*® "*Best Law Firms*," our firm has one of the most active employment litigation practices in the U.S. To learn more about our services, please visit us at www.jacksonlewis.com.



