



# The Council of Industry Newsletter

February/ March 2017 Volume 21 Issue 2

## Mfg Lobby Day in Albany: A Chance to Make a Difference

Manufacturing Lobby Day in Albany was March 1 and once again the Council of Industry was an important part of this advocacy effort in Albany. This popular and important annual event brings together the statewide manufacturing sector to meet with lawmakers on issues of importance.

Manufacturing Lobby Day brings together our statewide manufacturing coalition, The Manufacturers Alliance of New York State of which the Council of Industry is a founding member. This event is key for anyone with interest in policy changes that would help create a better business climate are encouraged to attend. If you were not able to make it this year please consider being a part of it next year. Manufacturing Lobby day usually takes place in early March.

The morning session was held at the Fort Orange Club, and included a morning briefing on key topics and guest speakers. Afterwards participants walked down to the Capitol for lobby visits with their assigned groups and team leader. These included:

- Workforce Development and Apprenticeship
- Workers Compensation and Regulatory Reform
- Energy
- Taxes – including Real Property Taxes and other taxes impacting manufacturers

Groups met with committee chairs and legislators key to their related issues. High on our agenda are 3 key issues: implementation of the Manufacturing Apprenticeship Programs, Comprehensive Workers' Compensation Reform and a 100% property tax credit for all New York state manufacturers.



*Cedric Glasper, Mechanical Rubber; Diedra Ryder, Vits International; Darren Doherty, Package Pavement and Brad Euker, Schatz Bearing Corp. at Mfg Lobby Day 2017.*

Following the lobby visits, participants reconvened at the Fort Orange Club to finish up the Lobby Day with additional forums discussing the Workers Compensation Reform and Solutions for Manufacturers with Ken Pokalsky, Senior Vice President, Government Affairs at the Business Council of New York State. This was followed by a panel of experts discussing Governor Cuomo's Clean Energy Standard and its potential impacts on the state's manufacturing and business sector.



*Frank Falatyn, FALA, Diedra Ryder, Vits International meet with NY State Senator Sue Serino in Albany.*

At the day's conclusion Karen Burns, MACNY, opened the floor for discussion of the days lobby visits and outlined the next steps for policy and action. \*

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## Can the WOTC Save Tax for Your Business?

From Judelson, Giordano and Siegel, PC, (JGS), a Council of Industry Associate Member

*Whether or not you're eligible for 2016, keep the Work Opportunity Tax Credit in mind in your 2017 hiring, because the credit is also available for 2017.*

Employers that hire individuals who are members of a "target group" may be eligible for the Work Opportunity tax credit (WOTC). If you made qualifying hires in 2016 and obtained proper certification, you can claim the WOTC on your 2016 tax return. Whether or not you're eligible for 2016, keep the WOTC in mind in your 2017 hiring, because the credit is also available for 2017.

In fact, the Protecting Americans from Tax Hikes Act of 2015 (the PATH Act) extended the WOTC through 2019. The PATH Act also expanded the credit beginning in 2016 to apply to employers that hire qualified individuals who have been unemployed for 27 weeks or more.

### What are the "target groups"?

Besides the long-term unemployed, target groups include:

- Designated community residents who live in Empowerment Zones or rural renewal counties,
- Long-term family assistance recipients,
- Qualified ex-felons,
- Qualified recipients of Temporary Assistance for Needy Families (TANF),
- Qualified veterans,
- Summer youth employees,
- Supplemental Nutrition Assistance Program (SNAP) recipients,

- Supplemental Security Income benefits recipients, and
- Vocational rehabilitation referrals for individuals who suffer from an employment handicap resulting from a physical or mental handicap.

### How much is the credit worth?

Qualifying employers can claim the WOTC as a general business credit against their income tax. The amount of the credit depends on the:

- Target group of the individual hired,
- Wages paid to that individual, and
- Number of hours that individual worked during the first year of employment.

The maximum credit that can be earned for each member of a target group is generally \$2,400 per employee. The credit can be as high as \$9,600 for certain veterans. Employers aren't subject to a limit on the number of eligible individuals they can hire. In other words, if there are 10 individuals that qualify, the credit can be 10 times the amount listed.

### Certification requirement

Before you can claim the WOTC, you must obtain certification from a "designated local agency" (DLA) that the hired individual is indeed a target group member. You must submit IRS Form 8850, "Pre-Screening Notice and Certification Request for the Work Opportunity Credit," to the DLA no later than the 28th day after the individual begins work for you.

But if you hired long-term unemployment recipients between January 1, 2016, and May 31, 2016, the IRS extended the deadline to June 29, 2016, as long as the individuals started work for you on or after January 1, 2016, and before June 1, 2016.

The WOTC can lower your company's tax liability when you hire qualified new employees. We can help you determine whether an employee qualifies, calculate the applicable credit and answer other questions you might have. \*

### Welcome New Members

**Global Foundries** - A full-service semiconductor design, development, fabrication and innovation company. Dutchess County. Contact: Joe Saltarelli.

### and Associate Members

**The Affinity Group LLC** - Financial Services & Planning. Albany. Contact: Nicholas Preddice.

**Fuze Hub** - Consulting. The statewide Manufacturing Extension Partnership Program (MEP) Center for New York State. Albany. Contact: Elena Garuc.

## Environment, Health & Safety Network Meeting on What to Expect from OSHA in 2017

The Environment Health and Safety Network met in January for a presentation from Ed Jerome, Catamount Consulting and former OSHA Regional Director, on the possible changes manufacturers could expect with the new administration in Washington, DC. With over 30 years of experience at OSHA Ed has seen the change of power many times and was very insightful. The basic gist was that we won't see much of a change for the first few months until the cabinet is in place and begins bringing on their people to run the Department of Labor and OSHA.



When the dust settles there will likely be less regulation and less enforcement with the Republican administration and Congress. The President has already declared he will cut regulations. According to a recent study by the National Association of Manufacturers face 297,696 restrictions on their operations from federal regulations." The study goes on to point out that of the manufacturers surveyed, "Eighty-seven percent say that if compliance costs were reduced permanently and significantly, they would invest the savings on hiring, increased salaries and wages, more R&D or capital replacement."

Unfortunately the recent hike OSHA fine amounts will probably remain unchanged according to Jerome, but the practice of "name and shame" for offenders will likely be discontinued. There is an expectation that there will be less enforcement and more compliance assistance as with past Republican administrations.

Despite the change in leadership the regulations in place are still in effect for the time being which includes the injury and illness recordkeeping and reporting requirements. According to the OSHA website "Many employers with more than 10 employees are required to keep a record of serious work-related injuries and illnesses. (Certain low-risk industries are exempted.) Minor injuries requiring first aid only do not need to be recorded. Employers must report any worker fatality within 8 hours and any amputation, loss of an eye, or hospitalization of a worker within 24 hours. Starting in 2017, many employers will be required to electronically submit the summary of injuries and illnesses to OSHA. Employers must report any worker fatality within 8 hours and any amputation, loss of an eye, or hospitalization of a worker within 24 hours." Visit [www.osha.gov](http://www.osha.gov) for the details.

Watch the Weekly Update and the Council of Industry website for info on the next EHS Network meeting in May covering ISO 14001. \*

## Consumer Price Index for January 2017

Wage Earners & Clerical	Jan-16	Jan-17	Dec-16	Point Increase	% Month	Increase Year
1967=100	688.26	705.52	701.15	4.36	0.6%	2.5%
82 - 84 =100	231.06	236.85	235.39	1.46	0.6%	2.5%
All Urban Consumers	Jan-16	Jan-17	Dec-16	Point Increase	% Month	Increase Year
1967=100	709.70	727.44	723.22	4.21	0.6%	2.5%
82 - 84 =100	236.92	242.84	241.43	1.41	0.6%	2.5%

Hudson Valley Unemployment for December 2016 was 4.0 %

*When the dust settles there will likely be less regulation and less enforcement with the Republican administration and Congress.*

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## Lean Six Sigma Yellowbelt Training Opportunity at Rockland Community College in April

**Date(s):** April 5, 6, 7, 2017

**Time:** 8:30 am - 4:30 pm

**Location:** Rockland Community College, Suffern, NY

**Instructor:** Vinnie Buonomo and Dr. Don Baker from RIT

**Cost:** \$400 per person, \*Groups with a minimum of 3 people from a company are required for this training (single participants should contact the Council to see if arrangements can be made to add them to a group.)

**Register** online at: <http://www.councilofindustry.org/course/lean-six-sigma-yellow-belt-training/> or email [training@councilofindustry.org](mailto:training@councilofindustry.org) or call (845) 565-1355.



This is an approach to process improvement that merges the complementary concepts and tools from both Six Sigma and Lean approaches. The resulting approach will have greater impact than one that centers on only Six Sigma or Lean. Participants will learn a short history of each approach and how they can complement each other. They will be introduced to the Define, Measure, Analyze, Improve, Control improvement process and some of the tools associated with each stage. The following topics will be focused during the training: Resistance to Change, 5-S Visual Controls, Team Building, Problem Solving Process and Statistical Thinking.

During this interactive Yellow Belt training, each group of participants will identify opportunities within their respective work areas and ways to improve those areas utilizing taught problem solving tools. The teams will present their identified work area opportunity and suggested solutions.

# MFG COMMUNITY

## Hudson Valley Pathways Academy Opens New Facility at Ulster Community College Kingston Campus

Lt. Governor Kathy Hochul headlined a group of VIP's who travelled to Kingston on February 28th to officially open the Hudson Valley Pathways Academy P-TECH School's new facility. The Early College High School is a partnership between Ulster BOCES, Ulster Community College and the Council of Industry and is the first of 32 similar schools state-wide to be located on a college campus. The Pathways Academy is located at the former Sophie Finn Elementary School which was recently renovated to become the Kingston Center of the Community College.



*Pathways students with Lt. Governor Hochul and Ulster County Executive Hein in their new classroom.*

The Hudson Valley Pathways Academy partners with Council or Industry members to ensure that students graduate with the necessary technical, employability, reading, writing, and communications skills that they will need to be successful in an ever-changing, knowledge-based economy. To gain real-world, professional experience, students work with local manufacturing and engineering professionals.



*Hudson Valley Pathways Academy Principal Jonah Schenker Ed.D and some of the students at the Grand Opening of their new facility at SUNY Ulster.*

*Photos from @UlsterBOCES*

# Immigration - A New Year, A New Form I-9

By Caroline M. Westover, Bond, Schoeneck & King PLLC, a Council of Industry Associate Member



On November 14, 2016, the United States Citizenship and Immigration Services (USCIS) released a new Form I-9 (Rev. 11/14/2016 N) to replace the prior form which expired on March 31, 2016. Beginning January 22, 2017, employers must use this updated form

for the initial employment verification of all new hires, as well as any applicable employment re-verifications. Prior versions of the Form I-9 will no longer be valid. The new Form I-9 has an expiration date of August 31, 2019.

By way of background, the Immigration Reform and Control Act (IRCA) requires employers to verify the identity and legal work authorization of all individuals, including U.S. citizens and legal permanent residents, hired after November 6, 1986. Specifically, the I-9 verification process requires individuals to present facially valid documentation to enable employers to verify an individual's identity and to further confirm that the individual is authorized to work in the United States. For record-keeping purposes, an employer must retain completed Form I-9s for either three years after an individual's date of hire or one year after the employment relationship ends — whichever is later.

According to a press release issued by the USCIS, the new Form I-9 is "designed to reduce errors and enhance form completion using a computer." Dubbed a "smart form," the online version of this updated form now includes various enhancements intended to minimize technical errors commonly made by employers and employees. For example, some of the new I-9 smart form features include the following:

- Embedded prompts in the online Form I-9 which provide instructions on how to properly complete that particular question.
- Drop down lists for certain questions (e.g., citizenship/immigration status, number of preparers/translators, state, document title, issuing authority, etc.) and calendar entries for requested dates (e.g., date of birth, document expiration dates, etc.).
- The opportunity to list/enter information for more than one preparer and/or translator (if applicable).
- Auto-population of "N/A" in certain blank fields (where applicable).
- Auto-population of the employee's name and citizenship/immigration status into Section 2 based upon responses provided in Section 1.
- A mechanism which prompts an individual about missing information and/or incomplete fields — highlighted in red — before moving from one section to another within the form.

- An "error-checking mechanism" which provides prompts and error messages where there may be potential response inconsistencies between citizenship/immigration status and proffered I-9 supporting documentation.
- A "Start Over" option that enables an individual to clear the Form I-9 and start anew, if necessary.
- A "Print" option that enables an individual to print the Form I-9 once data has been entered.
- An "Instructions" option which automatically links an on-line user to a separate copy of the Form I-9 instructions.
- Automatic generation of a quick response (QR) code.

Employers are reminded that even if they use the enhanced online version of the Form I-9, they must still print the document, gather the necessary handwritten signatures and store the completed form pursuant to the applicable I-9 recordkeeping requirements.

In addition to the electronic enhancements mentioned above, the USCIS has made several other notable revisions to the new Form I-9. A summary of the main changes within each section of the form appears below.

## Improved Instructions

In this latest round of revisions, the USCIS has separated the instructions from the actual Form I-9. In addition, the USCIS has amended the instructions to provide more detail and guidance in an effort to reduce errors during the verification process. The Form I-9 instructions are now 15 pages in length. Employers should note that they are still required to make either an electronic or hard-copy of these instructions available to employees when they complete the Form I-9.

## Section 1: Employee Information and Attestation

The "Other Names Used" field has been renamed to "Other Last Names Used (if any)." This field has changed to require only last name changes in an effort to protect the privacy of individuals (transgendered and others) who have changed their first names, as well as to avoid potential discrimination issues.

*Continued on page 11*

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## Regulatory Updates

Posted by Marina Heaney, Walden Environmental Engineering, a Council of Industry Member



### Proposed Part 360 Regulations

In early 2016, the NYSDEC proposed significant changes to New York State regulations regarding previously unregulated facilities, activities, and waste streams within the existing Part 360 solid waste management program. The proposed changes include modified permitting requirements for Transfer Stations, C&D Facilities, and Cooking Oil Processing Facilities.

Based on comments received from the public and concerns raised during the comment period, the NYSDEC issued a notice in October 2016 indicating that the department was re-evaluating the proposed regulations. New proposed regulations are expected to be reissued in Spring 2017, with another public comment period to follow. Walden's solid waste permitting experts will continue tracking developments related to the Part 360 updates and advising clients on how they might be affected by the changes. Please read Walden's blog, NYSDEC Part 360 Regulations Update.

### Proposed Changes to 49 CFR 107 – 181

On September 7, 2016, the United States Department of Transportation, Pipeline and Hazardous Materials Safety Administration proposed changes to 49 CFR 107, 171-176, 178, and 180, also known as the Hazardous Materials Regulations (HMR). The proposed changes were based off a desire to remain consistent with various standards around the globe. The HMR guides which method of transportation is allowed to be used to ship specific hazardous materials. To learn more the proposed changes, please read Walden's blog, US DOT proposes changes to 49 CFR 107 – 181, the Hazardous Materials Regulations.

### PFOA/PFOS Regulations

Perfluorooctanoic acid (PFOA), Perfluorooctane Sulfonate (PFOS) and related substances have been discovered in Hoosick Falls' water well, the Gabreski Air National Guard Base, and other areas in New York State. These substances are synthetic organic compounds that have been historically used to make products resistant to stains, grease, and water. The major nuance with PFOA and PFOS is that they do not degrade well over time,

and therefore remain in the environment and the bodies of humans and animals for many years, causing side effects such as high blood pressure and certain forms of cancer.

Proposed regulations seek to add these chemicals to the Hazardous Substance List located within 6 NYCRR Part 597. The effect of the proposed regulations is that releases of PFOA and PFOS will be regulated under the chemical bulk storage program, and also PFOA-contaminated sites will be considered under the State Superfund program.

There is currently a temporary emergency rule in effect which was continued on January 12, 2017 [see the NYSDEC website for details ([www.dec.ny.gov/regulations/104968.html](http://www.dec.ny.gov/regulations/104968.html))] while the State finalizes updates to 6 NYCRR Part 597, Hazardous Substances Identification, Release Prohibition, and Release Reporting related to PFOA and PFOS.

### Carbon Monoxide Detector Regulations

The New York State Uniform Fire Prevention and Building Code has been amended (19 NYCRR Part 1228 Section 1228.4) to require carbon monoxide detectors in commercial buildings that contain a potential carbon monoxide source. These include, but are not limited to: furnaces, boilers, gas or liquid fueled ovens, dryers, and any motor-vehicle related operations.

In order to determine the minimum number of carbon monoxide alarms required, a calculation must be done to determine the size of the "detection zone". A detection zone is typically just a single story of a building, with an exception that each and every classroom is its own detection zone, and will require a carbon monoxide detector regardless of size. A detection zone of less than 10,000 square feet requires one monitor, while over 10,000 square feet requires two, one being at any location 100 feet away from the central location.

Fines for non-compliance are up to \$1,000 per day and/or imprisonment. For more information, please read Walden's Blog NYS Carbon Monoxide Detectors.

### New Accident / Injury Reporting Rule (see article on page 9)

### Amendment to 6 NYCRR 482-2 (Title V)

Effective June 22, 2016, an amendment was added to 6 NYCRR 482-2, commonly known as "The Operating Permit Program". The effect of this amendment is all facilities falling under Title V of the Federal Clean Air Act are required to pay an updated annual fee based on emissions, which are based on the facility emissions of the previous year.

The key takeaway is that all facility managers must complete their previous year's emissions statements, otherwise the emissions amount will be based on total potential emissions. To Learn more, please read Walden's blog, The Number One Mistake Facilities Can Make with the Title V NYS Air Permit Changes.

For additional information or to learn more about how these regulatory changes may affect your facility, please contact Walden Environmental Engineering at 516-624-7200. \*

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## Business Council Urges Lawmakers to Get “Back to Business”

*From The Business Council of New York State, Inc.*

The Business Council of New York State, Inc. today released its 2017 Legislative and Regulatory Agenda. Branded “Back to Business,” the agenda urges the Governor and the Legislature to reverse the negative impact of last year’s anti-business session by implementing commonsense reforms and enacting key legislation which will promote growth, create jobs and benefit the entire state.

“It’s no secret that the 2016 Legislative session, with the combination of an onerous minimum wage increase and the most expansive Paid Family Leave mandate in the country, was poorly received by the state’s business community,” said Heather C. Briccetti, Esq., president and CEO of The Business Council of New York State, Inc. “Those mandates, combined with the lack of any meaningful, broad-based business climate reforms, left our state’s small, medium and large job creators wondering when Albany was going to get Back to Business and start working for them.”



The Business Council strongly believes it is in the best interest of the entire state to promote policies and regulatory reforms which make it easier for New York’s business community to grow and prosper. With that in mind, we are calling for the following:

### Workers’ Compensation Reform

Our top priority is meaningful workers’ comp reform. This includes issuance of updated scheduled loss of use medical guidelines and commencing duration caps at two years after an injury to fully realize the cost savings of duration caps on permanent partial disability benefits.

### Promote Energy Infrastructure Investments

Expanding access to natural gas for manufacturing facilities, power production, transportation, and other purposes will support the state’s economic and environmental objectives.

### Maintain Budget Discipline

New York’s fiscal discipline over the past six years has allowed the state to adopt important tax reforms and avoid the significant budget challenges – and pressures for new or increased taxes – faced by a number of other states. It is increasingly important that the state keep spending growth to 2 percent or lower, and avoid imposing significant new taxes and fees on the state’s business sector.

### Eliminate Regulatory Barriers to Growth

The state needs to address outmoded barriers and restrictions in state law that prevent sector-specific growth. Examples include adopting new insurance provisions that allow for the extension of ridesharing services to upstate and Long Island, and promoting innovation in the financial services sector by authorizing minority non-CPA ownership in public accountancy firms.

### Continue with Business Tax Reform

Following on state and New York City corporate tax reform adopted in 2014 and 2015, the state should adopt business tax reductions for small businesses organized as pass-through entities, including Sub-S corporations, LLCs, and partnerships; decrease the corporate franchise tax rate for small businesses; and reform

the administration of the local utility gross receipt tax and the real property tax.

### Education and Workforce Development

We continue to support the state’s commitment to enhanced education standards; and the continued expansion of the New York State P-TECH program. We will also advocate for funding for incumbent employment training; and continued development of CTE and STEM education initiatives.

### SEQRA

The state needs to reform the State Environmental Quality Review Act (SEQRA) to provide more certainty in project reviews, including: clarifying the standard for complete applications; heightening the standard for issues to be subject to administrative adjudication; making adherence to state review timetables mandatory; and assuring application of statutory and regulatory standards.

### Reduce Costs of Capital Investments

With major MTA and transportation capital plans adopted in 2016, and with a focus on the need for additional business, housing and infrastructure investments, the state needs to eliminate antiquated provisions that drive up cost. These include reforming the Scaffold Law by adopting the comparative negligence standard that applies to forms of liability, using a more realistic approach to implementing MWBE targets, and reducing the cost of public capital spending by repealing the Wicks law and reforming prevailing wages calculations.

### Reform HCRA

Set to sunset December 31, 2017, the Health Care Reform Act imposes some \$6 billion in taxes on premium payers and others to support a myriad of programs not envisioned in or sanctioned by the law. Intended to support bad debt/charity care for hospitals as well as promoting graduate medical education, HCRA taxes have become more of a slush-fund for health-related programs. Given the intent of the law and with over 2.8 million New Yorkers now insured through NY State of Health (many newly insured), an assessment of the need for further extension of HCRA is overdue.

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## Trump Undertakes Ambitious Regulatory Rollback

President Trump has embarked on an aggressive campaign against government regulation, joining with Republican lawmakers to roll back rules already on the books and limit the ability of federal regulators to impose new ones.

After just a few weeks in office, the new administration is targeting dozens of Obama-era policies, using both legislative and executive tactics. The fallout is quickly rippling across the federal bureaucracy and throughout the U.S. economy.

The campaign has alarmed labor unions, public safety advocates and environmental activists, who fear losing regulations that have been in place for years, along with relatively new federal mandates. Business groups, however, are thrilled, saying Trump is responding to long-standing complaints that a profusion of federal regulations unnecessarily increases costs and hampers their ability to create jobs.

Under Trump, “there’s great optimism that all of them will be addressed,” said Rosario Palmieri, vice president for labor, legal and regulatory policy at the National Association of Manufacturers.

Trump and congressional Republicans are working to strip rules away at an unprecedented rate. One of the most powerful levers is the Congressional Review Act, a 1996 law that gives lawmakers the power to nullify any regulation within 60 days of enactment.

On Jan. 30, Trump signed an executive order that requires agencies to offset the cost of every significant new regulation by eliminating existing regulations or making them less onerous. The order declares that “the total incremental cost of all new regulations” issued this year “shall be no more than zero.”

That sets a far more stringent standard than recent Republican administrations have attempted, experts on regulation said, leaving a slew of Obama-era rules in limbo.

According to the White House Office of Management and Budget, the cost of federal regulations has grown every year since 1982. Republicans of all stripes have long railed against what they say are crippling economic effects.

Meanwhile, the Trump White House is employing an executive

tactic that dates to the Reagan administration: issuing a 60-day freeze on new regulations. The tactic is a mainstay of new administrations. George W. Bush initially delayed 90 Clinton-era rules, and Barack Obama delayed, altered or rescinded more than two dozen of Bush’s actions.

Within a week of Trump’s inauguration, the new administration withdrew 24 significant rules that were about to be sent to the Federal Register for publication, regulatory analyst Curtis Copeland said. The new administration also delayed the effective dates of roughly 250 others, including 30 Environmental Protection Agency rules that were frozen in a single day. And although White House Chief of Staff Reince Preibus’s Jan. 20 memo called for a 60-day regulatory freeze, some regulations already are being delayed longer than that.

As a result, groups that had finally settled long-fought battles are feuding once again. Take the issue of the rusty patched bumble bee, whose population has shrunk 87 percent since the mid-1990s. On Jan. 11, the Obama administration declared it would be added to the endangered species list. Last month—a day before those protections were set to take effect—the Trump administration said it would postpone the listing until at least March 21.

Incoming agency officials are also signaling significant shifts in the way some industries are regulated. In November, the EPA sent out a lengthy request to nearly 20,000 oil and gas companies, asking them to gauge their emissions of methane within 60 or 180 days, depending on their facilities. Methane is a potent greenhouse gas linked to climate change. Matthew Hite, who represents gas processors as vice president for government affairs at the GPA Midstream Association, called the request “unnecessary and duplicative” and estimated that complying would cost each processor nearly \$3 million.

Since Trump took office, EPA officials have been granting companies that ask for it a 90-day extension. Several oil and gas officials said they expect the methane survey to be scaled back significantly or abandoned altogether.

Meanwhile, Michael S. Piwowar, the acting chairman of the Securities and Exchange Commission, said he has instructed staff to determine whether it is “still appropriate” to require manufacturers to certify that they do not use minerals from conflict-ridden areas such as Congo, where armed groups accused of massive human rights violations profit from their trade.

Some major U.S. firms, including Intel and Tiffany & Co., have embraced the policy, but others have said complying with the disclosure rule is costly and complicated.

Lawrence Heim, managing director at Elm Sustainability, an auditing firm that consults on conflict minerals, said he has seen “a notable slowdown” in the demand for doing “due diligence”



**Continued on page 11**

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## OSHA's Recordkeeping Rule: Reporting Fatalities and Severe Injuries/Illnesses

From [OSHA.gov](http://OSHA.gov)

Under OSHA's recordkeeping regulation, certain covered employers are required to prepare and maintain records of serious occupational injuries and illnesses using the OSHA 300 Log. This information is important for employers, workers and OSHA in evaluating the safety of a workplace, understanding industry hazards, and implementing worker protections to reduce and eliminate hazards.

However, there are two classes of employers that are partially exempt from routinely keeping injury and illness records. First, employers with ten or fewer employees at all times during the previous calendar year are exempt from routinely keeping OSHA injury and illness records. OSHA's revised recordkeeping regulation maintains this exemption.

Second, establishments in certain low-hazard industries are also partially exempt from routinely keeping OSHA injury and illness records. Due to changes in OSHA's recordkeeping requirements that went into effect Jan. 1, 2015, certain previously exempt industries are now covered. See the lists of both exempt and newly covered industries for details.

The previous list of partially exempt industries was based on the old Standard Industrial Classification (SIC) system and injury and illness data from the Bureau of Labor Statistics (BLS) from 1996, 1997, and 1998. The new list of partially exempt industries in the updated rule is based on the North American Industry Classification System (NAICS) and injury and illness data from the Bureau of Labor Statistics (BLS) from 2007, 2008, and 2009.

To find out if you are required to prepare and maintain records under the updated rule, first determine your NAICS code by:

Using the search feature at the U.S. Census Bureau NAICS main webpage. In the search box for the most recent NAICS, enter a keyword that describes your business. Choose the primary business activity that most closely corresponds to you, or refine your search to get more choices.

Viewing the most recent complete NAICS tables on the U.S. Census Bureau NAICS main webpage. Select the two-digit sector code and choose a six-digit industry code to read its definition.

Using an old SIC code to find your NAICS code using the detailed conversion tables on the U.S. Census Bureau Concordances page.

Contacting your nearest OSHA office or State agency for help.

Once you have found your NAICS code, you can use the following table to determine if your industry is exempt from the recordkeeping rule.



Link: [New list of industries exempt from OSHA recordkeeping requirements](#)

NOTE: Establishments in companies with 10 or fewer employees at all times in the previous year continue to be exempt from keeping OSHA records, regardless of their industry classification. The partial exemption for size is based on the number of employees in the entire company.

The OSHA injury and illness recordkeeping forms are:


The Log of Work-Related Injuries and Illnesses (OSHA Form 300),

The Summary of Work-Related Injuries and Illnesses (OSHA Form 300A), and

The Injury and Illness Incident Report (OSHA Form 301).


Employers must fill out the Log and the Incident Report only if a recordable work-related injury or illness has occurred. Employers must fill out and post the Summary annually, even if no recordable work-related injuries or illnesses occurred during the year.

In place of the OSHA forms, employers may also use equivalent forms (forms that have the same information, are as readable and understandable, and are completed using the same instructions as the OSHA forms they replace). Many employers use an insurance form instead of the Incident Report, or supplement an insurance form by adding information required by OSHA \*.



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**The CI Calendar of Training & Events**

**Date Class/Event**

**Mar 8** **Problem Solving & Decision Making** - 9:00 am—4:30 p.m. at Bowne Hall, SUNY Dutchess, Poughkeepsie, NY. Instructor: Glen Tanzman, Tanzco Management. **Class is full.**

**Mar 22** **Positive Motivation & Discipline** - 9:00 am—4:30 p.m. at Bowne Hall, SUNY Dutchess, Poughkeepsie, NY. Instructor: Rebecca Mazin, Recruit Right. **Class is full.**

**April 5** **High Performance Teamwork** - 9:00 am—4:30 p.m. at Bowne Hall, SUNY Dutchess, Poughkeepsie, NY. Instructor: Ellen Messer, Organizational Effectiveness Consulting. **Class is full.**

**April 5,6,7** **LEAN Six Sigma Yellow Belt Training** - 8:30 am - 4:30 pm at Rockland Community College. Instructor: Vinnie Buonomo and Dr. Don Baker from RIT. Cost: \$400 per person, \*Groups with a minimum of 3 people from a company are required for this training (single participants should contact the Council to see if arrangements can be made to add them to a group.) Email [training@councilofindustry.org](mailto:training@councilofindustry.org) for info.

**Apr 19** **Effective Business Communication** - 9:00 am—4:30 p.m. at Bowne Hall, SUNY Dutchess, Poughkeepsie, NY. Instructor: Rebecca Mazin, Recruit Right. Cost: \$200 single Council members, \$175 each for two or more from the same company, \$375 non-members.

**Apr 9** **Human Resources Network Meeting: Wage & Hour, FMLA** - 8:30 am - 10 am at the Council of Industry office, the Desmond Campus MSMC, Newburgh, NY. Presenter: Tom McDonough, Jackson Lewis PC. No cost to attend for members.

To register for these and other Council of Industry classes and events go to our website [www.councilofindustry.org](http://www.councilofindustry.org) and select the calendar page. All entries are links to more information and registration forms. You may also e-mail us at [training@councilofindustry.org](mailto:training@councilofindustry.org) or call (845) 565-1355 for questions or more information.

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**I-9**

Foreign national employees are no longer required to provide both their Form I-94 number and foreign passport information in Section 1. Instead, the updated form requires foreign national workers to supply one response from the following three options: (i) an Alien Registration Number; or (ii) a Form I-94 Admission Number; or (iii) a foreign passport number.

The employer must now affirmatively answer whether he/she has used a preparer/translator for completion of Section 1 of the Form I-9. If a preparer/translator has been used, the updated form now provides additional spaces to enter multiple preparers/translators.

#### Section 2: Employer or Authorized Representative Review and Verification

Addition of the employee's "Citizenship/Immigration" status at the beginning of Section 2. (This information should be consistent with what the employee has listed in Section 1.)

A new dedicated box/blank section where employer representatives may enter additional information/notes previously written in the margins (e.g., annotations for OPT extensions, receipts, Temporary Protected Status, etc.).

As noted above, the new Form I-9 includes new electronic features to facilitate fewer errors during the completion process. Reducing the number of technical/paperwork violations on the Form I-9 has become increasingly important since the federal government implemented higher civil fines against employers who commit immigration-related offenses, which includes, among other things, Form I-9 and E-Verify violations. With respect to I-9 paperwork errors (e.g., errors or omissions on the Form I-9), the federal government raised the civil penalty range from \$110-\$1,110 (per relevant individual) to \$216-\$2,156 (per relevant individual) — an increase of approximately 96%. The new penalties took effect on August 1, 2016.

Given the anticipation of heightened immigration enforcement by the new administration, employers may be well-served to review their I-9 procedures and records to ensure compliance with IRCA.

If you have questions about the new Form I-9 or general I-9 compliance issues, contact Caroline M. Westover, any of the attorneys in our Immigration Law Practice, or the attorney in the firm with whom you are regularly in contact. \*

**Continued from page 8**

#### **Regulatory Rollback**

on the origin of minerals, as manufacturers apparently place bets that the rule will soon disappear.

A coalition of liberal groups that include Public Citizen, NRDC and the Communications Workers of America has challenged the order in court, calling it "arbitrary, capricious, an abuse of discretion, and not in accordance with the law." They predicted the order would force the government to eliminate critical public protections.

Whatever happens in court, Rep. Jared Huffman (D-Calif.) predicts Trump's executive order will cause "complete chaos." Huffman noted that the National Oceanic and Atmospheric Administration briefly declined to issue critical regulations for the opening of fishing seasons off both coasts, unnerving commercial fishermen who rely on the government to set the annual guidelines.

"Apparently members of the new administration don't understand some regulations are critically important for the economic sector, and businesses depend on them," Huffman said. \*

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