

**VPP work-sites' injury and illness rates have been reported as more than 50 percent below the average for their industries.**

## Voluntary Protection Program (VPP) . . . re-evaluated

By Edwin S. Hopson  
Wyatt, Tarrant & Combs, LLP

The U.S. Occupational Safety and Health Administration (OSHA) announced in a press release in mid-June that it will evaluate its Voluntary Protection Program (VPP) in light of possible problems identified in a Government Accountability Office (GAO) report entitled, "OSHA's Voluntary Protection Programs: Improved Oversight and Controls Would Better Ensure Program Quality."

The GAO made a number of recommendations including "improved oversight and additional controls to ensure participating companies maintain effective workplace safety and health management systems," according to OSHA's June 18, 2009, press release.

VPP is OSHA's top cooperative program with some 2,200 workplaces currently participating, involving some 800,000 workers. In the past, VPP worksites' injury and illness rates have been reported as more than 50 percent below the average for their industries.

In a VPP, employer, employee, and OSHA establish cooperative relationships at workplaces that have implemented comprehensive safety and health management systems.

Approval as a VPP workplace is difficult to obtain, but nonetheless has been OSHA's official recognition of the extensive efforts of employers and employees to achieve an exemplary occupational safety and health program for their workplace.

Newly appointed Acting OSHA Administrator, Jordan Barab, claimed that OSHA had not adequately addressed GAO findings contained in a 2004 report concerning VPP and other voluntary compliance programs entitled "OSHA's Voluntary Compliance Strategies Show Promising Results, But Should Be Fully Evaluated Before They Are Expanded."

One primary purpose of the review, according to the press release, is to determine how best to allocate OSHA's limited resources amongst the various cooperative programs, as well as its enforcement program and other activities.

Acting OSHA Administrator Barab, in agreeing with the GAO recommendations, stated: "We will thoroughly review the VPP and Alliance Program to determine their effectiveness as well as review the programs' roles in helping the agency promote the safety and health of America's workers."

In addressing the GAO report's findings and recommendations, OSHA will review its program management, including its oversight policies and procedures; its documentation policy for actions taken in response to fatalities and serious injuries at VPP sites; and its goals and performance measures for VPP.

It will also look at its internal controls to ensure consistent compliance with VPP policies by OSHA's regional offices throughout the country. ▲

### A blog bookmark worthy ...

Ed Hopson, an attorney with Wyatt, Tarrant & Combs and contributing writer to Kentucky OSHA Journal, and another partner in the law firm, Kim Koratsky, have created an Internet blog to help the firm's clients and others "track the numerous developments in labor and employment law [including OSHA] at both federal and state levels." Go to <http://wyattemployment.wordpress.com/>

As editors, Hopson and Koratsky will provide news — and also their thoughts — on how new government developments may affect business.

A recent posting by Hopson was on the announcement that President Obama intended to nominate Dr. David Michaels for the position of OSHA adminis-

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The Wyatt law firm blog urges readers to post comments and also to suggest topics they, the readers, would like Hopson and Koratsky to cover.

**Blog, from page 1**

trator [which he did July 28]. Michael, an epidemiologist, is a research professor at George Washington University.

The blog provides links to a number of relevant agencies and sources, including Kentucky Roll Call, publisher of Kentucky OSHA Journal. ▲

**Safety and Health Training Schedule**

**September 21 - September 25, 2009**

The following are free courses offered by the state OSHA agency. Register online at <http://rsvpbook.com/event.php?63319>, or call 502-564-3070.

**Danville**

Inter-County Energy Community Room  
1009 Houstonville Road

**Agenda**

**Monday, September 21**

*Overview of the KY OSH Program 8:30 - 11:30 a.m.*  
This session discusses the obligation to provide a safe and healthy workplace, free from recognized hazards. Topics of discussion include the operations of the Kentucky Occupational Safety and Health Program, including enforcement and voluntary compliance services, and safety and health topics currently being considered for future standards and policies.

*KyOSH Mandated Health Programs- "In A Nutshell" 1:00 - 4:00 p.m.* This session takes a broad look at the basic health programs required for general industry, providing an invaluable overview for the novice and veteran safety and health professionals. The course will familiarize participants with the frequently-cited core elements of these programs and explain the requirements in plain language.

**Tuesday, September 22**

*Hazard Communication 8:30 - 11:30 a.m.*  
This session explains the requirements related to an employee's "right-to-know" about the hazards of chemicals to which he/she is exposed on the job and is designed for those persons responsible for development and implementation of the in-plant hazard communication programs, container labeling, material safety data sheets (MSDS), trade secrets, and employee training.

*Back Safety and Office Ergonomics 1:00 - 4:00 p.m.*  
This session explains why many back injuries occur

from lifting and how they may be prevented. The office ergonomics portion focuses on recognizing risk factors, reducing worker stress, and avoiding potential muscular skeletal disorders associated with everyday computer use.

**Wednesday, September 23**

*Fire Safety 8:30 - 11:30 a.m.*  
This session introduces the participant to the recognition of potential fire hazards and emergency procedures. Topics include the chemistry of fire, types and effectiveness of extinguishing agents, means of egress, detection and alarm systems, fire brigades, fire prevention plans. 29 CFR 1910, Subparts E and L, and references to NFPA codes provide the basis for the course.

*Slips, Trips and Falls 1:00 - 4:00 p.m.*

This session is designed to increase the participant's awareness of hazards that could result in a slip, trip, or fall. The course also discusses methods of control to reduce the probability of a slip or fall occurring.

**Thursday, September 24**

*Noise and Hearing Conservation 8:30 - 11:30 a.m.*  
This session explains the composition of sound, the instrumentation and criteria used to determine excessive noise levels, the effects of noise on the hearing mechanism, personal protective equipment, and basic noise control methodology. Also included is a discussion of the hearing conservation requirements. These requirements include employee exposure monitoring, audiometric testing, hearing protection, employee training, and related recordkeeping.

*Spray Finishing Operations 1:00 - 4:00 p.m.*

This course covers spray areas and spray booths and the application of the KY OSH Program's spray finishing regulation, 29 CFR 1910.107. The course will also include discussion of the National Fire Protection Association document, NFPA 33, the national consensus standard for spray finishing. Topics covered in this session will include design, cleaning, electrical, conveyors, piping systems, ventilation, chemical use and storage, and other hazards in and around spray areas and booths.

**Friday, September 25**

*Electrical Safe Work Practices 8:30 - 11:30 a.m.*  
This course is designed to familiarize participants with the Kentucky OSH's electrical Safety-Related Practices standards 1910.331-1910.335. Topics include requirements for working on de-energized and energized electrical equipment, shock and arc flash blast hazards, personal protective equipment and other NFPA 70E requirements. Go to: <http://www.rsvpbook.com/event.php?88536> to register online. ▲

## MAY CITATIONS & FINES

**B**elow is a listing of the citations and fines issued by the Kentucky Occupational Safety and Health agency during the month of May of 2009. 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 KOSH area director, or to contest them before the independent Occupational Safety and Health Review Commission.

### CANNON AUTOMOTIVE SOLUTIONS

**P.O. Box 3460, Bowling Green**

**Inspection site: 210 Jody Richards Dr., Bowling Green**

**5-13-09 \$16,225**

#### Serious

- Scrap door opening did not have guardrails. \$1,050
- Employer did not have energy control program, including training, for maintenance employees servicing machinery with multiple power sources. \$3,500
- Employer did not have a frequent crane inspection process in place. \$1,875
- Employer did not have a daily and pre-use inspection process in place for employees using crane slings. \$1,750
- Saw and milling machines were not properly guarded. \$1,050
- Power presses were not properly guarded. \$3,500
- Employer had not established and implemented a periodic and regular inspection program for parts and safeguards of power presses. \$1,750
- At least three flexible cords were used as substitutes for permanent wiring. \$1,750

#### Other

- Employer did not maintain OSHA 300 logs, 301 first report of injury, or 300A summaries for 2007, 2008 and 2009. \$0
- Floor of press area was not kept clean and dry. \$0
- Employer did not have emergency action plan in place. \$0
- Numerous fire extinguishers were blocked by storage and were not identified. \$0
- Compressed air used for cleaning was operated at 100 psi. \$0
- Employer did not comply with manufacturer's instructions regarding grounding of welder. \$0

### STEPHENS PIPE & STEEL

**P.O. Box 618, Russell Springs**

**Inspection site: 876 Maple St., Russell Springs**

**5-5-09 \$8,400**

#### Serious

- Point of operation guards on machinery were not guarded, resulting in employee's finger amputation. \$4,500
- Chain and sprocket wheel on roll saw was not enclosed. \$1,625
- Employees were not provided with flameproof screens, shields or protective goggles to protect them from rays of arc welder. \$2,275

### QUEBECOR WORLD BOOK SERVICES

**100 U.S. 60 Bypass, Versailles**

**Inspection site: 100 U.S. 60 Bypass, Versailles**

**5-21-09 \$6,500**

#### Repeat Serious

- Micro switch interlocks used as guarding on bindery machinery were not functioning properly. \$5,000

#### Serious

- Chains and sprockets on machinery were not properly guarded. \$1,500

### MAYNARD & MITCHELL INTERIORS

**4065 Knob Creed Road, Brooks**

**Inspection site: 651 Overdale Dr., Louisville**

**5-21-09 \$5,250**

#### Serious

- Two employees were working in aerial lift at least 19 feet above ground with no fall protection in place. \$2,500
- Two employees were working on roof at least 19 feet above ground with not fall protection. \$2,500

#### Other

- Employer did not provide an OSHA 301 form within eight hours of recordable injury. \$250

### DANNIE SIRESS DBA XTREME ROOFING

**4224 Wadeboro Road, Benton**

**Inspection site: Hwy. 60, Adair St., Smithland**

**5-21-09 \$5,100**

#### Serious

- Employees operating pneumatic nailers and employees in proximity of nailers were not wearing eye protection. \$600
- Six employees working on a roof at least 19 feet above ground were not protected from falling. \$1,500
- Employer did not provide adequate fall-protection training. \$1,500
- Extension ladder used by employees to access roof did not extend at least three feet above the roof surface; ladder was not set at proper angle; ladder was used on unstable triple-wheel trailer; employer did not provide ladder training. \$1,500

### COVALENCE SPECIALTY ADHESIVES DBA BERRY

**2320 Bowling Green Road, Franklin**

**Inspection site: 2320 Bowling Green Road, Franklin**

**5-1-09 \$4,500**

#### Serious

- Rollers on machine were not properly guarded, resulting in employee's finger amputation. \$4,500

**THE FLOORING GALLERY  
DBA THE FLOORING & FURNITURE**

163 Old Todds Road, Lexington

Inspection site: 163 Old Todds Road, Lexington

5-5-09

\$4,500

**Serious**

- Employee working from overhead storage area at least nine feet above ground was not protected from falling through unguarded side. \$1,500
- The load on powered industrial truck was left elevated more than nine feet while operator was performing other tasks. \$1,500
- Employee elevated unstable load of carpet padding on forklift, resulting in a fatal accident. \$1,500

**Other**

- Employer did not have anyone trained to render first aid. \$0
- Employer did not maintain OSHA 300-A logs for 2004, 2005, 2006, 2007 and 2008. \$0
- Employer did not have written emergency action plan. \$0
- Forklift was not examined daily before being placed into service. \$0

**THORNTON OIL CORP.**

10101 Linn Station Road, Suite 200, Louisville

Inspection site: 13335 Hurstbourne Pkwy., Louisville

5-1-094

\$4,500

**Serious**

- Employees were performing sheet metal work at least 16 feet above ground with no fall protection. \$4,500

**CINTAS CORP. NO. 2 DBA CINTAS CORP.**

P.O. Box 2375, Ashland

Inspection site: 4125 Winchester Ave., Ashland

5-1-09

\$4,225

**Serious**

- Employer did not provide emergency shower for employee exposed to sodium hydroxide. \$1,300
- Employer did not provide method of guarding hazard created by reciprocating action of wash machines, with respect to adjacent fixed objects, when machines are pivoted to load and unload. \$1,300
- Employer did not ensure that openings through which 24-volt electrical conductors enter were effectively closed. \$1,625

**Other**

- Floor in front of washer was not kept clean and dry. \$0
- Service disconnect was rated to 600 volts and was labeled by employee at 480 volts. \$0
- Employer did not ensure the depth of working space in direction of access to live parts was at least three feet. \$0
- Employer did not ensure the width of working space in direction of access to live parts was at least three feet. \$0
- Employer did not include "Bluegrass KESCO" in hazard communication program list of hazardous chemicals. \$0

- Employer did not include all chemical hazards in written hazard communication program for employees conducting non-routine tasks. \$0

**COWBOY CHARCOAL**

P.O. Box 99, Albany

Inspection site: 3227 Ky. Hwy. 90 W., Albany

5-29-09

\$4,000

**Serious**

- Employer did not implement hearing monitoring program, did not implement an audiometric testing program, and did not allow employees to select hearing protectors from variety of protectors; employer did not properly train employees on hearing protection; and employees were exposed to continuous noise above the permissible daily noise level. \$2,500
- Employer did not establish and implement a written respiratory protection program; employer did not provide working environment where exposure to respirable dust was below OSHA limits. \$750

**Other**

- Employer did not have a written hazard communication program. \$0

**BRIAN RICHARD HAYS DBA HAYS & HAYS**

2170 W. Meadowland Dr., Rockport, Ind.

Inspection site: 102 Pocahontas Trail, Georgetown

5-27-09

\$4,000

**Repeat Serious**

- Seven employees were working on roof at least eight feet above ground with no fall protection. \$4,000

**MONROE PALLET CO.**

P.O. Box 279, Eubank

Inspection site: 4370 E. Hwy 70, Eubank

5-27-09

\$3,375

**Serious**

- Debarking machine and gangsaw were not properly guarded. \$2,500
- Unused openings on electrical box and converter box were not effectively closed. \$875

**Other**

- Fire extinguisher was missing annual inspection tag. \$0
- Electrical panel box did not have marked breaker switches. \$0
- Employer did not have written hazard communication program. \$0

**BILLY RAY ROBINSON DBA B&R CONSTRUCTION**

419 Gabbard Road, Berea

Inspection site: 2914 Keene Troy Road, Versailles

5-21-09

\$3,000

**Serious**

- Employees working on barn roof at least 10 feet above ground were not protected from falling; employees were lifted to roof by Dynalift powered industrial truck and were not protected from falling. \$1,500
- Employer did not develop and maintain a fall-hazard training program. \$1,500

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**DAVE THOMPSON**  
**DBA EMERGENCY RESTORATION SERVICES**  
 1203 Fruitful Court, Louisville  
**Inspection site: 4511 S. Third St., Louisville**  
**5-5-09** **\$3,000**

**Serious**

- Nine employees were working on roof at least 22 feet above ground with no fall protection. \$1,500
- Employer did not provide fall training to employees. \$1,500

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**DAVID PRUDEN DBA PRUDEN TREE SERVICE**  
 8160 Hwy. 456, Owensboro  
**Inspection site: 5114 Hwy. 56, Owensboro**  
**5-27-09** **\$3,000**

**Serious**

- Two employees working below aerial lift bucket were not wearing head protection. \$1,500
- Safety latch on truck crane was missing. \$1,500

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**DAVID QUIGGINS DBA BORN TO ROOF**  
 6801 Rock Forrest Dr., Louisville  
**Inspection site: 8504 Hurstbourne Woods Place, Louisville**  
**5-13-09** **\$3,000**

**Serious**

- Seven employees were working on a roof at least 23 feet above ground with no fall protection. \$1,500
- Employer did not provide fall-hazard training. \$1,500

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**GERALD L. ROBINSON**  
**DBA ROBINSON & SON CONSTRUCTION**  
 1227 Copper Creek Road, Berea  
**Inspection site: 2914 Keene Troy Road, Versailles**  
**5-21-09** **\$3,000**

**Serious**

- Employees working on barn roof at least 10 feet above ground were not protected from falling; employees were lifted to roof by Dynalift powered industrial truck and were not protected from falling. \$1,500
- Employer did not develop and maintain a fall-hazard training program. \$1,500

**PRINCE TREE AND STUMP REMOVAL**  
 P.O. Box 582, Thompson, Ga.  
**Inspection site: 5106 Hwy. 56, Owensboro**  
**5-26-09** **\$3,000**

**Serious**

- Employee working below an aerial lift bucket was not wearing head protection. \$1,500
- Employee working in aerial lift bucket was not protected from falling by wearing a body belt and lanyard attached to the boom or basket. \$1,500

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**KNIGHT'S MECHANICAL**  
 4270 Litchfield Road, Cecilia  
**Inspection site: 651 Overdale Dr., Louisville**  
**5-21-09** **\$2,500**

**Serious**

- Six employees were working on third floor area, with multiple wall openings, at least 13 feet above ground with no fall protection in place. \$2,500

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**FIVE STAR DEVELOPMENT**  
 312 New Venture Dr., Louisville  
**Inspection site: 6002 Wooded Creek Dr., Louisville**  
**5-5-09** **\$2,000**

**Serious**

- Employee used temporary electric with reverse polarity; employee was using temporary electric with no continuous path to ground to power a grounded drop light. \$2,000

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**W.R. COLE AND ASSOCIATES**  
 11300 Decimal Dr., Louisville  
**Inspection site: 651 Overdale Dr., Louisville**  
**5-5-09** **\$2,000**

**Serious**

- Employee was working in aerial lift at least 15 feet above ground with no body belt or harness with a lanyard attached. \$2,000

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**BIG LOTS INC. DBA BIG LOTS #1752**  
 5318 Bardstown Road, Louisville  
**Inspection site: 5318 Bardstown Road, Louisville**  
**5-13-09** **\$1,875**

**Serious**

- Employer had not reviewed emergency action plan with all new employees; employer did not have written emergency action plan. \$1,875

**Other**

- Employer did not have anyone trained to render first aid. \$0

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**KERR GROUP DBA BERRY PLASTICS**  
**360 Southwood Court, Bowling Green**  
**Inspection site: 360 Southwood Court, Bowling Green**  
**5-1-09 \$1,875**

**Serious**  
 • Point of operation guard on press brake was not properly guarded. \$1,875

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**ARCHWAY ROOFING & SHEETMETAL SYSTEMS**  
**6404 Organ Creek Road, Pendleton**  
**Inspection site: 651 Overdale Dr., Louisville**  
**5-21-09 \$1,500**

**Serious**  
 • Five employees were working on roof at least 26 feet above ground with no fall protection. \$1,500

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**BOBBY ATKINSON**  
**DBA BOBBY'S ROOFING & REMODELING**  
**456 Lindberg, Lexington**  
**Inspection site: 1030 Clintonville Road, Paris**  
**5-1-094 \$1,500**

**Serious**  
 • Employees working on roof were not protected from falling. \$1,500

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**JAMES BETHEL**  
**DBA PERFORMANCE CONSTRUCTION**  
**48 Mercer Lake, Greenville**  
**Inspection site: 159 State Route 604, Central City**  
**5-1-09 \$1,500**

**Serious**  
 • Two employees were working on a roof at least eight feet above ground with no fall protection. \$1,500

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**J.D. HARPER AND SONS**  
**151 Payne St., Lexington**  
**Inspection site: 239 Russell Cave Road, Paris**  
**5-5-09 \$1,500**

**Serious**  
 • Three employees were working on roof at least nine feet above ground with no fall protection. \$1,500

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**JORGE ROBERTO JUAREZ DBA JUAREZ ROOFING**  
**136 Maryland Ave., Canton, Ohio**  
**Inspection site: 1642 Alexandria Dr., Lexington**  
**5-26-09 \$1,500**

**Serious**  
 • Four employees were working on roof at least 11 feet above ground with no fall protection. \$1,500

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**JWI RESTORATION INC.**  
**233 Iterny Way, Winchester**  
**Inspection site: 2010 Hancock Valley, Winchester**  
**5-5-09 \$1,500**

**Serious**  
 • Employees and subcontractor employees were working on roof at least 14 feet above ground with no fall protection. \$1,500

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**KATHERINE RICH & JOSE RAMOS GUTIERREZ**  
**DBA JOSE RAMOS**  
**145 Meredith Ave., Frankfort**  
**Inspection site: 2010 Hancock Valley Dr., Winchester**  
**5-1-09 \$1,500**

**Serious**  
 • Four employees were working on a roof at least 14 feet above ground with no fall protection. \$1,500

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**REX BURNETT DBA K.A. FORD CONSTRUCTION**  
**26 First Ave. SW, Pataskala, Ohio**  
**Inspection site: 13335 Hurstbourne Pkwy, Louisville**  
**5-1-094 \$1,500**

**Serious**  
 • Employees were performing sheet metal work at least 16 feet above ground with no fall protection. \$1,500

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**RUDY HARIDY DBA RUDY HARIDY ROOFING**  
**2473 Wolf Trail Road, Lancaster**  
**Inspection site: 6099 Redd Road, Lexington**  
**5-1-09 \$1,500**

**Serious**  
 • Three employees were working on a roof at least 11 feet above ground with no fall protection. \$1,500

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**STONE CONSTRUCTION**  
**2973 Summerfield Dr., Lexington**  
**Inspection site: 6099 Redd Road, Lexington**  
**5-1-09 \$1,500**

**Serious**  
 • Employee was performing framing work at least 11 feet above ground with no fall protection. \$1,500

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**TONY FLENER**  
**DBA T.F. ROOFING & CONSTRUCTION**  
**226 E. Depot St., Greenville**

**Inspection site: 933 River Road, Central City**  
**5-20-09** **\$1,500**

**Serious**

- Three employees working on a roof at least 11 feet above ground were not protected from falling. \$1,500

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**TONY VINCENT DBA T'S HOME REPAIR**  
**620 Center St., Central City**  
**Inspection site: 703 W. Reservoir Road, Central City**  
**5-13-09** **\$1,500**

**Serious**

- Two employees were working on a roof at least seven feet above ground with no fall protection. \$1,500

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**PEARCE READY MIX CONCRETE**  
**P.O. Box 116, Buckner**  
**Inspection site: 6801 Enterprise Dr., Louisville**  
**5-27-09** **\$875**

**Serious**

- Open-sided platform at least nine feet above ground did not have guard railing or points to tie off to. \$875

**Other**

- Overhead storage area was not marked with load rating. \$0
- Breaker switches in two electrical panel boxes were not clearly marked. \$0

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**OLDHAM COUNTY BOARD OF EDUCATION**  
**HARMONY ELEMENTARY SCHOOL**  
**1901 S. Hwy. 1793, Goshen**  
**Inspection site: 1901 S. Hwy. 1793, Goshen**  
**5-1-098** **\$750**

**Other**

- Employer did not maintain a written hazard communication for employees working with chemicals, including Triad II Disinfectant Cleaner; employer did not provide proper training or information about hazards of chemicals used by custodial employees. \$750

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**YAMAHA OF LOUISVILLE**  
**400 N. English Station Road, Louisville**  
**Inspection site: 400 N. English Station Road, Louisville**  
**5-29-09** **\$750**

**Serious**

- Employer did not provide suitable eyewash station for employees working with sulfuric acid in battery-changing area. \$750

**Other**

- Employer did not have a written hazard communication program for employees working with sulfuric acid. \$0
- Employer did not have available MSDS for each hazardous

chemical. \$0

- Employer did not provide adequate training and information to employee working with hazardous chemicals, including sulfuric acid. \$0

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**LANDMARK SPRINKLER**  
**11540 Blankenbaker Access Dr., Suite 103, Louisville**  
**Inspection site: 651 Overdale Dr., Louisville**  
**5-20-09** **\$625**

**Serious**

- Two employees working on third floor, at least 13 feet above ground, with multiple wall openings were not protected from falling. \$625

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**ABRAPOWER INC.**  
**8055 Dixie Hwy., Suite 100, Florence**  
**Inspection site: 8055 Dixie Hwy., Suite 100, Florence**  
**5-1-095** **\$0**

**Other**

- Records for vice president's bloodborne pathogen training were not kept. \$0
- Parts-washing container was not labeled with identity of chemical in the container. \$0
- Parts-washing container was not labeled with hazards of chemical in the container. \$0

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**THE BANK OF KENTUCKY**  
**111 Lookout Farm Dr., Crestview Hills**  
**Inspection site: 111 Lookout Farm Dr., Crestview Hills**  
**5-1-092** **\$0**

**Other**

- Employer did not provide first aid training for 60 employees. \$0
- Fire extinguishers were not inspected monthly. \$0

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**COMAIR INC.**  
**77 Comair Blvd., Erlanger**  
**Inspection site: Greater Cincinnati Airport, Hebron**  
**5-1-094** **\$0**

**Other**

- Employer's hazard assessment was outdated and inaccurate due to significant change in workstation. \$0

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**MOTHER NATURE SPRING WATER**  
**P.O. Box 146, Ashcamp**  
**Inspection site: 8862 Elkhorn Creek, Ashcamp**  
**5-20-09** **\$0**

**Other**

- No person was adequately trained in first aid. \$0
- Employer did not have OSH 300 log for 2007. \$0 ▲

**Watchful eye on Washington**

**President Obama picks university professor, scientist to head OSHA**

President Obama nominated David Michaels on July 28 to the position of assistant secretary of labor in charge of OSHA. Michaels must now go through the “at the moment perfunctory” congressional step of seeking confirmation by the Democrat-controlled U.S. Senate. Once confirmed, Michaels, Ph.D, MPH, will replace Jordan Barab, the acting head of OSHA.

The New York Times, in an editorial, called Michaels a “champion for workers’ safety,” saying that “President Obama has chosen wisely in picking a respected scientist and safety advocate to head the federal Occupational Safety and Health Administration. . . . [Michaels] seems just the right man to steer the agency back toward an emphasis on protecting workers after eight years of lax oversight and favoritism to industry under the Bush administration.”

Michaels, an epidemiologist, is currently a research professor and interim chair of the Department of Environmental and Occupation Health at the George Washington University School of Public Health and Health Services. His work there includes studying the health effects of occupational exposure to toxic chemicals, including asbestos metals and solvents.

As Assistant Secretary for Environment, Safety and Health at the Department of Energy during the Clinton Administration, Michaels aided the passage of the Energy Employees Occupational Illness Compensation Program Act of 2000, an initiative that compensates nuclear weapons workers who develop occupational illnesses as a result of exposure to radiation and chemicals in the workplace.

U.S. Rep. Lynn Woolsey (D-CA.), chairwoman of the Workforce Protections Subcommittee of the House Education and Labor Committee, said Michaels’ nomination, along with that of Labor Secretary Hilda Solis’ commitment to improve worker safety, will allow OSHA to “issue long overdue safety standards and bring back more vigorous enforcement of workplace safety and health standards.” This could include the possible resurrection of the ergonomics standards.

According to information about Michaels posted on the Web site of Baker Donelson, one of the South’s leading law firms,

“In testimony before a Senate committee in 2007, Michaels expressed concern about several issues, including the underreporting of workplace injuries and illnesses, lack of new standards promulgated by OSHA, insufficient use of OSHA’s General Duty Clause as an enforcement tool, and the outdated health standards still in place.”

Baker Donelson cautions employers that they “should pay strict attention to matters that could be deemed administrative in nature, such as properly maintaining OSHA 300 Logs for Injuries and Illnesses. . . . [and] During this economic downturn, disgruntled ex-employees may be even more prone to claiming retaliatory discharge following allegations of health and safety violations in the workplace. Employers should also expect more OSHA attention and resources devoted to inspections and enforcement. OSHA routinely tracks not only the number of inspections but those that result in citations, with a goal of issuing a citation with every inspection. Finally, employers should carefully evaluate their workplaces for hazards, regardless of whether a specific regulation addresses a particular hazard, given Dr. Michaels’s stated desire to increase the use of the General Duty Clause as an enforcement tool.”

**Sen. Reed introduces Kennedy’s bill**

Congresswoman Woolsey is the chief sponsor of HR 2067, the proposed Protecting America’s Workers Act, which would expand OSHA’s coverage to include the 8.5 million public sector workers who are not covered by an OSHA State Plan; raise civil penalties; expand protection of whistleblowers; improve administrative procedures for whistleblower investigations; set mandatory minimum penalties for violations resulting in death; and provide new rights and access to information for injured workers and family members.

In the U.S. Senate, Majority Leader Harry Reid, D-Nev., has introduced S. 1580, on behalf of Sen. Ted Kennedy, D-Mass. The bill seems to be identical to Woolsey’s bill in the House. The Senate bill has 20 sponsors. When he introduced the bill, Sen. Reid noted, “We now have strong partners in the White House and at the Department of Labor who are committed to making our workplaces safer.”

Both Woolsey’s bill and Reid’s bill are still in the committee to which they were assigned, which is normal this early in the two-year session. President Obama backed a version of these bills when he was in the Senate. ▲

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