



# Council of Industry Newsletter

December 2013

Volume 17

Issue 11

## Manufacturing Policy—Be Engaged

Despite the dysfunction and political gamesmanship in our nation’s capital, your Council of Industry and our family of manufacturing organizations are making a difference.

Real progress doesn’t always come easy, and it often seems that Washington stands in the way of itself. Over the past few months, I’ve heard many members voice their frustrations with our elected leaders. I agree; there’s a lot to complain about. Congress is more divided than ever. The recent government shutdown and the near default of our nation’s finances this fall put us on the brink of a fiscal calamity and the Patient Protection and Affordable Care Act is looking like something from a George Orwell novel.

Unfortunately, not much has happened in Congress to change the political dynamics that fueled last month’s government shutdown and debt ceiling debate. Strong opinions remain from both sides of the political spectrum. Most members of Congress haven’t budged in their stalwart positions about government spending or revenue.



Fair-Rite Products Corp., a Council of Industry member company, has hosted tours for New York State Congressman Chris Gibson.

Partisan politics and the gridlock continue to impede manufacturing competitiveness and economic growth. We, as manufacturers, can’t sit passively on the sidelines and hope things will get better on their own. We need policymakers to work for us—not the other way around. That’s why it is imperative that our elected officials hear from their constituents, particularly manufacturers. Manufacturing has the highest multiplier effect of any other sector of our economy, but to ensure our mantle of economic and global greatness, we need pro-growth policies (like those laid out in the NAM’s Growth Agenda) that will spur robust job creation and economic growth.

In his keynote remarks at the Annual Lunch last month, NAM Vice President Ned Monroe noted last month that the many studies show the number-one way to influence an undecided member of Congress is through direct conversations with constituents. Members of Congress need to hear your stories about how an uncompetitive tax system places a significant disadvantage to compete in the global marketplace; how a lack of an “all-of-the-above” energy policy threatens our energy security and drives up costs; how regulatory overreach creates an unfavorable business climate that hinders innovation and investment; how our broken immigration system in the United States is ceding talent to our competitors and turning away a future generation of entrepreneurs; how our nation’s infrastructure is too old, inefficient and badly in need of modernization to keep up with today’s business needs; how the political brinksmanship and stalemate in Washington are driving uncertainty in planning for the future. These issues—and many others—are holding manufacturers back.

As an association we connect on a regular basis with our elected officials. However, that connection is not the same as them hearing directly from you. As a manufacturer, you can influence your members of Congress and other elected officials. Council members should commit to regularly contacting your elected officials. To meet with them during a recess, show them your operation. If every Council member manufacturer schedules one meeting with their member of Congress then over the next few months, we will have a real impact.

### Inside this Issue

<b>2</b>	Training & Education
<b>3</b>	Networks & Council News
<b>4</b>	More Networks & Council News
<b>5</b>	Personnel Matters
<b>6</b>	Legislative Matters
<b>7</b>	More Legislative Matters
<b>8</b>	EHS Matters
<b>9</b>	CI Calendar
<b>10</b>	Regulatory Matters
<b>12</b>	Shipping & Distribution Matters
<b>13</b>	Consumer Price Index

## Training and Education

### Manufacturing Leadership Program Starts in January - Register and Pay by 12/31 and Receive a Discount!

*Attendees complete the DiSC Classic Profile, a non judgmental personality tool for understanding their behaviors as a leader.*

The Certificate in Manufacturing Leadership Program classes begin on January 15th with the Fundamentals of Leadership, a two day class that begins with a discussion of the difference between leadership and management. This discussion sets the stage for a program that allows participants to identify their own leadership style and gain tools and techniques to make their individual strengths most effective. Attendees complete the DiSC Classic Profile, a non judgmental personality tool for understanding their behaviors as a leader. Leaders use this knowledge to understand behavior across four primary dimensions. DiSC Profile information creates a baseline for exploration of skills and techniques to enhance leadership effectiveness including:



- Individual approaches in response to different workplace talents.
- Communication styles of effective leaders.
- Building a team through targeted recruitment and interviewing.
- The essentials for establishing expectations.
- Solving common problems. · Delegating to get things done.
- Managing employee performance to achieve goals.

This class is followed by nine others focusing on topics from Making a Profit in Manufacturing to Problem Solving & Decision Making, Human Management Issues, and Best Practices & Continuous Improvement, just to name a few.

For more information including course descriptions and online registration go to [http://www.councilofindustry.org/training/category\\_courses.html#certificate](http://www.councilofindustry.org/training/category_courses.html#certificate).

### Register and Pay by December 31st and receive an Early Bird Discount—

	Single Member	Two or More From Same Company
<b>One Day Course</b>	\$200 before discount <b>\$185 with Early Bird discount</b>	\$175 before discount <b>\$160 with Early Bird discount</b>
<b>Fundamentals of Leadership</b>	\$400 before discount <b>\$370 with Early Bird discount</b>	\$350 before discount <b>\$320 with Early Bird discount</b>
<b>Entire Program</b>	\$1,700 before <b>\$1,600 with Early Bird discount</b>	\$1,550 before discount <b>\$1,450 with Early Bird discount</b>



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## Network & Council News

### EHS Sub-council Meeting: Chemical & Petroleum Bulk Storage Regulation Recap

By Joe Farron, C.T. Male Associates, a Council of Industry Member

The Environment, Health and Safety sub-council met on Friday, November 22nd to discuss the pending changes to the Chemical & Petroleum Bulk Storage Regulations in New York State. Joe Farron from C.T. Male Associates Engineers, Surveyors, Architects & Landscape Architects, P.C. of Latham, NY presented the proposed changes and discussed the possibilities of future updates in the bulk storage regulations.



#### 2013 Draft Regulations

In August 2013, NYSDEC issued draft regulations which would cover the Chemical Bulk Storage (CBS) and Petroleum Bulk Storage (PBS) Programs. NYSDEC will be revising these regulations regarding the handling and storage of petroleum and hazardous substances to reflect changes in state and federal laws. These Preliminary Drafts represent DEC's Phase I of a two-phase rule making process. Phase II will occur once the USEPA finalizes their rulemaking process currently underway to revise the federal regulations governing the storage of petroleum and hazardous substances in underground storage tanks (Title 40 of the Code of Federal Regulations, Parts 280-281).

The NYSDEC Petroleum Bulk Storage Regulations (6 NYCRR Parts 612-614) are being repealed and replaced with a new Part 613 which regulates the handling and storage of petroleum products pursuant to the amended ECL Article 17, Title 10. The new Part 613 will: consolidate existing state and federal regulations for underground tanks to simplify compliance by providing the regulated community with one regulation; reflect the requirements of the Federal 2005 Energy Policy Act including requirements for ensuring that facility operators have been trained, authority to prohibit delivery of petroleum and hazardous substances to tanks that are leaking, may be leaking, or are being operated in significant non-compliance, and requirements for piping and dispenser secondary containment; incorporate additional changes made to the PBS law in 2008 regarding the definition of "petroleum" and of "facility;" and clarify existing regulations.

The NYSDEC Chemical Bulk Storage regulations (Parts 595-599) are also being updated as part of this action; including repealing Part 595 and mov-

ing the requirements to Parts 597 and 598; updating/ replacing Parts 596, 598 and 599; and updating Part 597 to include new definitions and release reporting changes, clarifying reportable quantities, and adding new substances covered under CERCLA.

#### History of Regulatory Requirements

In 1983, the State Legislature enacted Article 17, Title 10 of the Environmental Conservation Law (ECL), entitled "Control of the Bulk Storage of Petroleum." The law applies both to Underground Storage Tanks (USTs) and Aboveground Storage Tanks (ASTs) storing petroleum. Regulations for the Petroleum Bulk Storage (PBS) program (Title 6 New York Codes Rules & Regulations (NYCRR) Parts 612-614) were promulgated in 1985. These regulations require owners to register storage facilities with DEC and comply with requirements for the safe storage and handling of petroleum. These PBS regulations have not been substantively revised since 1985.

The DEC enacted the Chemical Bulk Storage (CBS) regulations (6 NYCRR Parts 595-599) in 1994 which set forth requirements for the safe handling and storage of over 1,000 hazardous substances (listed in Part 597). In 1984, Congress added Subtitle I to RCRA requiring the USEPA to regulate USTs storing certain forms of petroleum (mostly motor fuels) and hazardous substances. In 1988, EPA passed federal UST regulations (40 CFR 280 and 281) laying out a comprehensive program for the monitoring and upgrading of USTs in the United States.

#### Differences in State and Federal Regulatory UST Programs

Because the Federal UST regulations were developed after the New York regulations, they have differed from New York's in several major ways.

*The NYSDEC Petroleum Bulk Storage Regulations (6 NYCRR Parts 612-614) are being repealed and replaced with a new Part 613 which regulates the handling and storage of petroleum products pursuant to the amended ECL Article 17, Title 10.*

Continued on page 13



## More Network & Council News

*If experienced human resource professionals have a hard time understanding their obligations under the law, then what about those who run or manage a small business? How much more difficult must it be for them?*

### What Law Did You Break Today?

*By Greg Chartier, HRinfo4U, a Council of Industry Associate member*

*Editor's note: Greg Chartier will be presenting information on federal employment law and regulations from his book "What Law Did You Break Today?" at the next Council of Industry HR sub-council meeting on 1/17. Registration info is below.*

I teach a class at Pace University called The Essentials of Human Resource Management. Part of the program is a review of some of the fundamental laws that have a human resource impact. That section always causes the most distress for students, when they realize the extent and depth of the knowledge they need to possess.

One of the results of that class is another two-day program that I developed and we conduct at Pace, called The Essentials of Human Resource Law. Each time I conduct the class, I see the same expressions of disbelief, this time from very experienced human resource professionals.

Both of these programs provided the seed that led to my book, What Law Did You Break Today? If experienced human resource professionals have a hard time understanding their obligations under the law, then what about those who run or manage a small business? How much more difficult must it be for them?

Perhaps most distressing is that both programs as well as the book only deal with federal laws that impact human resources. Each state and locale has their own laws and regulations and the unfortunate truth is they sometimes conflict with each other.

It still amazes me how many laws and regulations employers must be aware of, and I also remind myself that many small firms are quite nervous about compliance – to the extent that they comply with laws and regulations that may not even apply to them. Not only are there lots of things to be

aware of, they change regularly. In fact, even though I published the book in 2013, there are already some changes to be made and a 2nd edition is in the works.

At the same time, we shouldn't let

the myriad of laws and regulations dictate how our businesses are run. I am a minimalist. I want to do what I have to do, comply with what I have to comply with, but I don't want to get overly focused on requirements, obligations and "legalities." This is where, I believe, problems are more likely to occur.

Final thought. The laws and regulations described in my book and in other places, help to "frame" the relationship between employers and employees as well as safeguard the rights and responsibilities of both parties. Within the frame we want to create an environment that promotes positive relationships between our employees and ourselves. This positive relationship should be characterized by employee engagement, employee productivity and employee creativity.

Human resources plays a critical role in the engagement process; communicating company strategy and goals, developing and maintaining employee programs to involve and engage them and, of course, complying with the required laws and regulations. My hope is that the book encourages employers and human resource professionals to do just that.

Come to the Council of Industry's Human Resources sub-council meeting on **Friday, January 17th** to hear about some of those federal regulations and laws. Greg will be presenting from **8:30 – 10 am at the Council of Industry office, The Desmond Campus, MSMC, Newburgh**. There is no cost for members to attend. To register email Alison Butler at [abutler@councilofindustry.org](mailto:abutler@councilofindustry.org) or sign up online at: <http://www.councilofindustry.org/?p=1283>



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## Personnel Matters

### Hiring Ex-offenders: Considerations for Employers

By Tammy Binford From HRHero.com

The hiring process can be challenging for employers and jobseekers alike. Employers struggle to match their needs to the skills and experience of applicants. Jobseekers struggle to make employers understand why they're right for the job. That dual struggle gets even more complicated when a criminal conviction is added to the picture.

According to figures in a report from the Council of State Governments

Justice Center, some nine million people are released from jail every year. In 2010, 708,677 sentenced prisoners were released from state and federal prisons, and 4.9 million individuals were on probation or parole. Many of those people will have trouble finding employment.

In September, the center released a white paper titled "Integrated Reentry and Employment Strategies: Reducing Recidivism and Promoting Job Readiness." The paper notes that most of the millions in U.S. jails and prisons will at some point return to the community. It also says that incarcerated individuals report that getting a job after their release will be key to their ability to stay away from crime.

#### Getting hired

Gaining employment is greatly complicated as a result of having a criminal history. The Justice Center has developed a "Reentry and Employment Toolkit" to help employers and jobseekers overcome problems caused by a criminal past. Part of the toolkit focuses on hiring incentives for employers, including the Federal Bonding Program and the Work Opportunity Tax Credit.

**Federal Bonding Program:** This program, established by the U.S. Department of Labor, provides fidelity bonds to employers that hire people classified as hard to employ, including ex-offenders. The program provides insurance to protect employers against employee dishonesty and covers any kind of stealing, including theft, forgery, larceny, and embezzlement. The program differs from commercial fidelity bonds because it covers risky job applicants deemed not bondable by insurance companies.

**Work Opportunity Tax Credit:** This program is a federal tax credit employers can get for hiring people from certain target groups, including individuals who have been convicted of a felony whose hiring date is not more than one year after the conviction or release from prison. The maximum annual credit an employer can receive for hiring ex-felons is \$2,400 per employee.

Even with incentives, employers may be reluctant to hire someone with a criminal history. A question-and-answer sheet from the Program for Prison Reentry Strategies at the Bluhm Legal



Clinic at Northwestern University's Law School looks at the question, "Why would a business want to train and hire someone coming out of prison?" In addition to the tax credit, the answers presented include:

Before being hired and without any employer obligation, returning prisoners can be trained and prepared to apply skills that others in the labor force don't have.

Prisoners may have received education or skills in prison that can be put to use for a particular company.

Many returning prisoners are highly motivated to complete parole obligations and succeed at a job.

Returning prisoners are often accountable to parole officers, who help them meet work obligations.

Employers hiring ex-offenders contribute to a returning prisoner's ability to benefit the community economically and socially.

#### OK to ask about criminal record?

It's one thing for employers to hire someone they know has a criminal record, but it's another thing to ask applicants about criminal history. In 2012, the Equal Employment Opportunity Commission (EEOC) issued new enforcement guidance on employer use of arrest and conviction records. The guidance points out that depending on how they use criminal history, employers can run afoul of the antidiscrimination aspects of Title VII of the Civil Rights Act of 1964.

The EEOC guidance makes a distinction between arrest and conviction records. "The fact of an arrest does not establish that criminal conduct has occurred, and an exclusion based on an arrest, in itself, is not job related and consistent with business necessity," the guidance summary states. "However, an employer may make an employment decision based on the conduct underlying an arrest if the conduct makes the individual unfit for the position in question."

Continued on Page 15

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LENDER

## Legislative Matters

*The agency maintains the proposed rule will encourage employers to improve workplace safety and health and will enhance employers' reputations. However, some commentators have suggested the proposed rule supports OSHA Assistant Secretary Dr. David Michaels's controversial "regulation by shaming" initiative.*

### OSHA Proposes Electronic Submission of Workplace Injuries, Illnesses Data, Plans to Make Information Public

*From Jackson Lewis LLP, a Council of Industry Associate Member*



The U.S. Occupational Health and Safety Administration has issued a proposed rule that would require certain employers to submit records of workplace injuries and illnesses electronically on a quarterly and annual basis. Improve Tracking of Workplace Injuries and Illnesses, 78 Fed. Reg. 67253

(2013) (to be codified at 29 C.F.R. pt. 1904) (proposed Nov. 8, 2013). OSHA says it intends to make the data collected public in a searchable online database. The agency maintains the proposed rule will encourage employers to improve workplace safety and health and will enhance employers' reputations. However, some commentators have suggested the proposed rule supports OSHA Assistant Secretary Dr. David Michaels's controversial "regulation by shaming" initiative. Written comments on the proposed regulations must be submitted by February 6, 2014. OSHA intends to hold a public meeting on the proposed rule on January 9, 2014, but it gives no timetable for the expected publication of a final rule.

#### Quarterly Reporting

Under the proposal, employers that are required to keep injury and illness records under Part 1904 of OSHA's recordkeeping regulations and had 250 or more employees (including full-time, part-time, temporary, and seasonal workers) in the previous

year must submit all of the information from these records (OSHA Forms 300 and 301) electronically on a quarterly basis. Specifically, employers must submit data for

- recorded injuries, illnesses and fatalities as follows:
- for the period from January through March, by April 30;
  - for the period from April through June, by July 31;
  - for the period from July through September, by October 31; and
  - for the period from October through December, by January 31.

In addition, they must submit OSHA Form 300A (Summary Form) by March 2 of the year after the calendar year covered by the form.

#### Annual Reporting

Under the proposal, employers that are required to keep injury and illness records under Part 1904 of OSHA's recordkeeping regulations, had at least 20 employees (including full-time, part-time, temporary, and seasonal workers) in the previous year, and are in certain designated industries, must submit the annual summary information from the OSHA Form 300A electronically by March 2 of the year following the end of the calendar year covered by the form. The designated industries include those with a 2009 Days Away From Work, Job Restriction, or Job Transfer (DART) rate of 2.0 or greater and are listed in Appendix A to Subpart E of Part 1904.

#### Upon Notification

The proposal also will require employers who receive written notification from OSHA to submit specified information from their Part 1904 injury and illness records electronically at specified time intervals.

#### Secure Website Submission

OSHA plans to provide a secure website for the electronic submission of the requested data. Employers will register their establishments and be assigned a login ID and a password. The website will allow for both direct data entry and submission of data through a batch file upload.

**Continued on page 14**

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## More Legislative Matters

### Ten Steps Federal Contractors Should Take to Prepare for OFCCP's Revised Regulations Applicable to Veterans and Disabled Individuals

By Larry P. Malfitano, Bond, Schoeneck & King PLLC, a Council of Industry associate member

The revised Regulations issued by the Department of Labor, Office of Federal Contract Compliance Programs ("OFCCP"), addressing affirmative action obligations applicable to disabled individuals under the Rehabilitation Act of 1973, as amended ("Section 503"), and to protected veterans pursuant to the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended ("VEVRAA"), become effective March 24, 2014. Due to the numerous requirements in these new Regulations, contractors should start reviewing and implementing procedures to ensure compliance.

Ten steps that covered contractors should implement by March 24, 2014 include:

1. Review current electronic systems and databases to determine if there is capacity to capture protected veteran and disability status for both applicants and employees. If not, contractors will need to invest in new systems or methods to capture this required data.
2. Review current referral sources to determine if sources are providing qualified protected candidates; sources that are not should be eliminated and/or new ones should be added. This is a key component for meeting the 8% hiring benchmark under VEVRAA and the 7% utilization goal under Section 503.
3. Ensure all required notices are posted. Where notices are posted electronically, make sure they are accessible to all employees, including those with disabilities. For contractors who use electronic or internet-based application processes, an electronic notice must be posted and stored with the electronic application to inform job applicants of their EEO rights.
4. Review collective bargaining agreements to determine if the agreements include notice of the contractor's affirmative action and non-discrimination policies and request for cooperation. If they do not, contractors should send annual letters to each union, notifying the union(s) of the policies and requesting cooperation.
5. Review and update the list of all existing subcontracts, including vendors and suppliers, who should

be receiving the mandatory written notice to subcontractors of the contractor's affirmative action efforts and request for cooperation.

6. Revise contracts and purchase orders to include the revised mandatory EEO language under both Section 503 and VEVRAA.
7. Make sure solicitations and advertisements include all the protected categories – minorities, females, disabled individuals, and veterans. OFCCP has indicated in recent FAQs that just using "D" and "V" is not adequate since abbreviations must be commonly understood by jobseekers.
8. Update recordkeeping procedures to incorporate the three-year retention requirement for specific records under Section 503 (documentation and assessment of external outreach and data collection analysis) and VEVRAA (documentation and assessment of external outreach, data collection analysis, and benchmarking records).
9. Revise self-identification forms inviting applicants to self-identify at both the pre-offer and post-offer stage of the selection process. All Section 503 invitations must use the new OFCCP form which will be posted on OFCCP's website once approved. Under the Section 503 Regulations, employees must be invited to self-identify again every five years and reminded on an annual basis that they can voluntarily update their status at any time.
10. Adopt written reasonable accommodation procedures to ensure uniformity in processing requests. The OFCCP's guidance for creating procedures (listed in Section 503 Regulations as Appendix B) can be used in developing such procedures.



*Due to the numerous requirements in these new Regulations, contractors should start reviewing and implementing procedures to ensure compliance.*

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## EHS Matters

*The Ladder Safety App, aimed at improving extension ladder safety, features a multimodal indicator and a graphic-oriented guide for ladder selection, inspection, positioning, accessorizing, and safe use.*

### Environment, Health and Safety Freeware— Mobile Apps

From [www.ehsfreeware.com](http://www.ehsfreeware.com)

The following is a list of freeware that provides EH&S apps for your smart phone or other mobile device. This list is from [www.ehsfreeware.com/apps.htm](http://www.ehsfreeware.com/apps.htm). To learn more about a particular item, click on the item name or visit the website and click on the item name. To download a software product or visit an interactive web site visit the website listed above and click on "download" or "view," respectively. But first, please read ehsfreeware's disclaimer and permissions page.



#### [ChemAlert App](#)

By Risk Management Technologies (RMT). ChemAlert for iPhone and iPad now brings ChemAlert to the world of mobiles. Key chemical safety management information including Hazards and GHS Classifications, Risk and Safety Phrases, First Aid information and recommended Personal Protective Equipment (PPE) is now be available at your fingertips.

#### [Chemical Safety Data Sheets App -- ICSC](#)

By ThatsMyStapler Inc.. This iPhone, iPod touch, and iPad app displays International Chemical Safety Cards [ICSC] produced by the United Nations Environment Programme (UNEP), the International Labour Office (ILO), and the World Health Organization (WHO). ICSCs summarize essential health and safety information on chemicals for their use at the "shop floor" level by workers and employers in factories, agriculture, construction and other work places.

#### [Ergonomics App](#)

By Sidharth Garg. Winner of the People's Choice Award for the Department of Labor Worker Safety and Health App Challenge. Ergonomics is a complete mobile workplace health solution that offers ergonomic equipment setup advice, a variety of workplace specific stretching exercises, and programmable reminders to help you time your breaks. For iPhone, iPod touch, and iPad.

#### [Hazmat Load and Segregation Guide App](#)

By ThatsMyStapler Inc.. The information presented in this iPhone app can help the hazmat employee determine the requirements for shipping different classes of hazardous materials on the same vehicle. It uses the "Segregation Table for Hazardous Materials" in the Hazardous Materials Regulations (HMR).

#### [Heat Safety Tool](#)

By US Occupational Safety and Health Administration and US Department of Labor. The App allows workers and supervisors to calculate the heat index for their worksite, and, based on the heat index, displays a risk level to outdoor workers. Then, with a simple "click," you can get reminders about the protective measures that should be taken at that risk level to protect workers from heat-related illness-reminders about drinking enough fluids, scheduling rest breaks, planning for and knowing what to do in an emergency, adjusting work operations, gradually building up the workload for new workers, training on heat illness signs and symptoms, and monitoring each other for signs and symptoms of heat-related illness. Available for iPhone, BlackBerry and Android.

#### [iAuditor -- Safety Audit and Checklist App](#)

By SafetyCulture Pty Ltd. An iPhone app for workplace safety audits, pre-start checks and inspections that is customizable for every industry and application. Collaborate in the cloud.

#### [NIOSH Ladder Safety App](#)

By National Institute for Occupational Safety and Health (NIOSH). The Ladder Safety App, aimed at improving extension ladder safety, features a multimodal indicator and a graphic-oriented guide for ladder selection, inspection, positioning, accessorizing, and safe use. Available for iPhone/iPad or Android mobile devices.



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# CI Calendar of Training and Events

<b>Dec 31</b>	<b><u>Deadline for Early Bird Discount on Certificate in Manufacturing Leadership Program</u></b>
<b>Jan 15 &amp; 22</b>	<b><u>Certificate in Manufacturing Leadership: Fundamentals of Leadership</u></b> -9:00 am—4:30 pm at Dutchess Community College, Bowne Hall, Poughkeepsie, NY
<b>Jan 17</b>	<b><u>Human Resources Sub-council: Which Law Did You Break Today?</u></b> - 8:30—10 am at the Council of Industry office, MSMC Desmond Campus, Newburgh. Presenter Greg Chartier, HRinfo4u.
<b>Feb 5</b>	<b><u>Certificate in Manufacturing Leadership: Best Practices &amp; Continuous Improvement</u></b> -9:00 am—4:30 pm at Dutchess Community College, Bowne Hall, Poughkeepsie, NY
<b>Feb 12</b>	<b><u>Certificate in Manufacturing Leadership: Human Resource Management Issues</u></b> -9:00 am—4:30 pm at Dutchess Community College, Bowne Hall, Poughkeepsie, NY
<b>Mar 5</b>	<b><u>Certificate in Manufacturing Leadership: Problem Solving &amp; Decision Making</u></b> -9:00 am—4:30 pm at Dutchess Community College, Bowne Hall, Poughkeepsie, NY
<b>Mar 19</b>	<b><u>Certificate in Manufacturing Leadership: Positive Motivation &amp; Discipline</u></b> -9:00 am—4:30 pm at Dutchess Community College, Bowne Hall, Poughkeepsie, NY
<b>Apr 2</b>	<b><u>Certificate in Manufacturing Leadership: High Performance Teamwork</u></b> -9:00 am—4:30 pm at Dutchess Community College, Bowne Hall, Poughkeepsie, NY
<b>Apr 9</b>	<b><u>Certificate in Manufacturing Leadership: Effective Business Communication</u></b> -9:00 am—4:30 pm at Dutchess Community College, Bowne Hall, Poughkeepsie, NY

*You can find more information on the courses and events listed in our calendar by going to our website— [www.councilofindustry.org](http://www.councilofindustry.org) or if you are reading our electronic version just press Ctrl and click the course title.*

**Manufacturing Job Opportunities**

*If you have job openings and positions to fill:*

- Post it on the Council of Industry Website [www.councilofindustry.org](http://www.councilofindustry.org)
- Look at resumes from our member recommended **For Hire page**

Contact Alison at [abutler@councilofindustry.org](mailto:abutler@councilofindustry.org) for more info.



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## Regulatory Matters

### Conflict Minerals: The Next Supply Chain Reporting Challenge

By Glenn Tanzman, Tanzco Management Consulting, LLC, a Council of Industry Associate Member

On August 22, 2012, the Securities and Exchange Commission adopted a final rule that will require public companies to make disclosures of the use of “conflict minerals” in the products that they manufacture or contract to manufacture. Congress adopted Section 1502 (Dodd-Frank) in order to further the humanitarian goal of ending the violent conflict and rampant human rights abuses in the Democratic Republic of Congo (the “DRC”). Section 1502 and the final rule define “conflict minerals” as cassiterite (tin), columbite-tantalite (coltan), wolframite (tungsten), their derivatives (tin, tantalum, and tungsten), and gold. Tin, tantalum, tungsten, and gold are referred to as the 3TG’s.

The final rule requires annual disclosures by public companies for which conflict minerals necessary to the functionality or production” of products that they manufacture or contract to manufacture. Such companies must conduct inquiries into the country of origin of their conflict minerals and disclose the results of those inquiries. If, based on its country of origin inquiry, a company determines that its conflict minerals originated in the Covered Countries and did not come from recycled or scrap sources, or has reason to believe that such conflict minerals may have originated in the Covered Countries (DRC and 9 surrounding countries, see list below), then it must: exercise due diligence on the source and chain of custody of its conflict minerals and prepare an independently audited Conflict Minerals Report that describes its due diligence efforts and identifies products containing conflict minerals.

All companies providing disclosures under the final rule must do so on a new Form SD, to be filed annually with the SEC on or before May 31st. Information on Form SD will cover a company’s conflict minerals disclosure for the prior calendar year, regardless of the company’s fiscal year end. The first Form SDs will be due on or before May 31, 2014 and will cover calendar year 2013.

The final rule applies to any registrant filing reports with the SEC under Section 13(a) or Section 15(d) of the Exchange Act. This broad category of companies includes domestic reporting companies, foreign private issuers, smaller reporting companies,

to provide a link to its website where the disclosure is publicly available.

Many non-reporting companies are likely to be affected by the rule because

a reporting company will need to obtain information on the origins of conflict minerals from its supply chain. **Therefore, suppliers may need to perform Reasonable Country of Origin Inquiry (RCOI) inquiries or diligence on conflict minerals that may be contained in products or components they supply and report the results to their customers.**

Conflict Minerals reporting is primarily a data gathering and review exercise for both reporting companies and their suppliers. What do you need to do to properly respond to a request for Conflict Minerals information about the products you are supplying? Companies need to have a plan to respond to those inquiries that:

- That meets their customer’s SEC requirements
- Is reasonably designed to identify the 3TG’s in their products
- Follows the OECD guidance on due diligence for conflict minerals

Most of your customers will require you to perform an RCOI and report them on the latest version of the EICC GeSI form, currently version 2.03a Final. In order to complete this form you need to drill down your supply chain to identify the smelters of the 3TG’s.

Although it might be a good idea to create a Conflict Minerals Policy Statement or to post it on your website, the truth is it has very little value to your customer because it will not contribute enough to your customer’s ability to make accurate SEC declarations. Conflict Minerals Free Statements without supporting evidence are not believable and create a liability issue for the supplier.

On the other hand, a properly completed EICC GeSI form will be of high value to your customer. The form can be completed at the company, division, or product level. The best approach for gathering this information is to create an affected supplier list, an amalgamated list of suppliers whose products are likely to contain 3TG’s. The following table will help you identify those suppliers by providing common uses for the 3TG’s:



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**Continued on next page**



**Common Uses for Conflict Minerals**

Conflict Mineral	Derivative Metal	Industries	Applications
Cassiterite	Tin	Electronics Automotive Industrial Equipment Construction	Solders for joining pipes Auto parts Tin plating Alloys (bronze, brass, pewter)
Columbite-tantalite	Tantalum	Electronics Medical Equip. Industrial Tools Aerospace	Capacitors Hearing aids Pacemakers Carbide tools Jet engine components
Gold	Gold	Jewelry Electronics Aerospace	Jewelry Electronic plating and wiring
Wolframite	Tungsten	Electronics Lighting Industrial machinery	Metal wires Electrodes Electrical contacts Heating and welding

Be aware that you may have to go beyond direct suppliers to the manufacturers to identify the country of origin of the 3TG's. Distributors and contract manufacturers may not have the information requested, therefore a hybrid approach including both is the best way to compile that list of amalgamated list of affected suppliers.



If you need to perform an RCOI, you will not only need to request information from your supplier (EICC GeSI form) but to review it for accuracy and communicate your corporate policy to them. An RCOI is generally conducted in two phases, with suppliers, and with smelters. The purpose of the supplier RCOI is to;

- Communicate corporate expectations
- Identify the suppliers conflict mineral free commitment
- To identify source smelters

The purpose of the smelter RCOI is to;

- Identify the country of origin
- Identify the conflict mineral nature of the 3 TG's used

If the smelter responds that the sourcing from a "Covered Country" then the concept of "guilty until proven innocent" applies. If the smelter is certified by the "Conflict Free Smelters Program" then they can be consider conflict minerals free. If the smelter responds that they do not source from a covered country and provides reasonable evidence that you verify their claims using industry and NGO (Non-Governmental Organizations) sources. Those are referred to as warning signs in the law. NGOs release their own findings of smelters mineral sources and is therefore a valuable part of this process.

In conclusion, depending on your place in the supply chain, you are likely to have obligations to provide information regarding the sources of the 3TG's in your product. The purpose of this brief summary is provide some of the basics of Section 1502 of Dodd-Frank and not a complete representation of the legislation. Further investigation is necessary before making any decisions regarding any obligations under this law. If you need more information regarding Conflict Minerals, please feel free to contact me.

Note: The 9 countries surrounding the DRC are the Central African Republic, Southern Sudan, Zambia, Angola, Congo Republic, Tanzania, Burundi, Rwanda, and Uganda.

*Glenn Tanzman is the principal of Tanzco Management Consulting, a global compliance, supply chain, quality, and operations consulting firm.*



## Shipping & Distribution Matters

### Keeping Delivery on Time: Keep Promises Realistic

*From Vanacore, Debenedictus, DiGiovanni & Weddell, LLP, CPAs,  
Council of Industry Associate member*

*Unrealistic due dates have consequences - and none of them are good. You may have to go into overtime, disappoint the customer, or bump another customer's order.*



If you're like most manufacturers, your on-time delivery rate could use some improvement. While it's most critical in a "Just in Time" environment, it's an issue for every manufacturer in terms of building customer satisfaction and maintaining a competitive edge.

A number of factors influence the ability to deliver on time. Here are a few to consider:

**Improvement begins with measurement.** On-time delivery is measured as the percentage of time that goods reach customers' loading docks by the due date. That number in

and of itself is important, but you can add power by routinely analyzing the figure to see what contributed to both meeting and missing due dates.

**Quote realistic due dates.** Unrealistic due dates have consequences - and none of them are good. You may have to go into overtime, disappoint the customer, or bump another customer's order. Take into consideration historical output data, as well as current and expected plant capacity. Don't quote on a best-case scenario. Factor in some wiggle room for an equipment breakdown or another big customer wanting a rush order. Of course, if the customer needs the order sooner than your realistic due date, you have to be willing to add capacity.

**Adopt or upgrade finite capacity and scheduling software.** Managing the many variables affecting production is almost impossible to do manually. Computer programs can help enable your company to create realistic plans and schedules displayed on monitors throughout the plant. More importantly, it helps you react to changes and communicate them quickly. Software also enables you to generate "what if" scenarios so you can be prepared for unexpected events, such as an employee's absence or a delay in getting materials.

**Simplify your shop floor configuration.** Do you have a traditional functional layout in which, for example, all welding work goes to a welding department? Consider converting to customer-focused cells arranged so that work flows logically from raw material to finished goods. This model is better at adapting to change than the functional model and flexibility is a key benefit of cells in terms of achieving on-time delivery.

**Shorten customer lead times.** The shorter the time between order entry and delivery, the fewer uncertainties you have to deal with. Manufacturers with short customer lead times tend to have the highest on-time delivery rates.



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**Continued from page 2**

**Council & Network News**

Differences between New York State and Federal UST Regulations include:

- Federal regulations have a different definition of petroleum than NYS regulations and provide an exemption for certain tanks storing heating oil used consumptively on-premises and certain tanks storing motor fuels at farms and residences;
- The federal regulations cover underground tanks over 110 gallons rather than 1,100 gallons;
- The requirements for UST leak detection are different;
- The federal regulations required USTs to be upgraded by December 22, 1998 to satisfy leak detection and corrosion protection requirements;
- Federal regulations require a site assessment to be performed when a tank is permanently taken out of service.

DEC has been implementing the federal requirements under an agreement with the USEPA. The August 2013 draft revisions to the regulations will make the state and federal requirements consistent.

**2005 Energy Policy Act**

In 2005, Congress passed the Energy Policy Act. The regulations were mainly impacted in the following areas:

- Requirements for ensuring that facility operators have been trained;
- Authority to prohibit delivery of petroleum and hazardous substances to tanks that are leaking, may be leaking, or are being operated in significant non-compliance; and

- Requirements for piping and dispenser secondary containment.

**2008 New York Statutory Changes**

In New York, several statutory changes were required before the regulations could be updated. These changes were passed into law in 2008. Since 2008, both the NYSDEC and USEPA have been drafting regulations to implement the requirements of the Energy Policy Act. The main revisions to the ECL in 2008 included:

Changing the definition of petroleum to be consistent with the federal definition;

Incorporating requirements for operator training;

Incorporating the federal requirements for prohibiting deliveries of petroleum and hazardous substances to tanks with significant violations of the regulations;

Changing the definition of "facility" to be based upon the location (property) of the tanks rather than upon the tanks themselves (also, the threshold for regulating USTs was reduced to match the federal requirement of a tank capacity of 110 gallons or more); and

Incorporating requirements for secondary containment of piping and dispensers.

This is just a brief overview of the information presented in the meeting. Mr. Farron went into depth on the changes and what they will mean to companies and how these will impact member facilities. Many in attendance asked questions and received clarification on various aspects of these regulations. If you have any questions or would like to speak with Mr. Farron, he can be reached at (518) 786-7471 or [j.farron@ctmale.com](mailto:j.farron@ctmale.com).

**Consumer Price Index for Oct. 2013**

				<u>Point</u>	<u>%</u>	<u>% Increase</u>
<b>Wage Earners &amp; Clerical</b>	<u>Oct. '12</u>	<u>Oct. '13</u>	<u>Sept. '13</u>	<u>Increase</u>	<u>Month</u>	<u>Year</u>
1967=100	679.07	684.31	686.70	-2.39	-0.3	0.8
1982-84= 100	227.97	229.74	230.54	-0.8	-0.3	0.8
<b>All Urban Consumers</b>						
1967=100	692.92	699.60	701.41	-1.8	-0.3	1.0
1982-84=100	231.32	233.55	234.15	-0.6	-0.3	1.0

Hudson Valley unemployment rate for October 2013 = 6.3%

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### Continued from front page Manufacturing Policy

The Council of Industry, the Manufacturers Alliance of New York and the NAM fight for our members every day. We are making progress. But to truly advance the manufacturing agenda, we need your involvement. Cynicism is understandable given the current state of politics and many may want give up on our elected leaders—especially as they continue to grapple with our financial budget and deficit—but we cannot succumb to that temptation. We need to lay the groundwork to ensure the manufacturing agenda continues to be front and center in the policy discussions.

Manufacturing makes America strong. Contact your lawmaker today.

Here are addresses for contacting your representatives:

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### Continued from page 6 Legislative Matters

#### Online Database

OSHA eventually intends to make the data it collects public in a searchable online database, including:

- all data fields from the OSHA Form 300A (Summary Form);
- all data fields from the OSHA Form 300 (Log), except the employee's name; and
- all data fields on the right side of OSHA Form 301 (Incident Report).

The information reported from the Incident Report would include the case number, date of injury or illness, time employee began work, time of event, what the employee was doing just before the incident occurred, what happened, what the injury or illness was, what object or substance directly harmed the employee, and the date of death, if applicable.





## Continued from page 5 Personnel Matters

The guidance states that unlike arrests, convictions “usually serve as sufficient evidence that a person engaged in particular conduct.” However, “there may be reasons for an employer not to rely on the conviction record alone when making an employment decision.”

The guidance also addresses “disparate treatment” and “disparate impact” as they relate to Title VII. An employer may face disparate treatment liability if it treats criminal history information differently for different applicants or employees based on their race or national origin, the guidance summary states. For example, if an applicant of a certain race is disqualified because of criminal history while an applicant of a different race with a comparable criminal history is not disqualified, the employer may be guilty of disparate treatment.

Even if an employer has a neutral policy that excludes individuals based on criminal conduct, it can face disparate impact liability if the policy disproportionately affects individuals in a category protected by Title VII and the policy isn’t job related and consistent with business necessity.

“National data supports a finding that criminal record exclusions have a disparate impact based on race and national origin,” the guidance summary states. “The national data provides a basis for the [EEOC] to investigate Title VII disparate impact charges challenging criminal record exclusions.”

The guidance summary points out two circumstances in which the EEOC says employers will meet the “job related and consistent with business necessity” defense:

“The employer validates the criminal conduct exclusion for the position in question in light of the Uniform Guidelines on Employee Selection Procedures ...”; or

“The employer develops a targeted screen considering at least the nature of the crime, the time elapsed, and the nature of the job. ... The employer’s policy then provides an opportunity for an individualized assessment for those people identified by the screen, to determine if the policy as applied is job related and consistent with business necessity.”

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