



DOL News Brief

November 21, 2012

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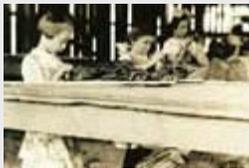
Combating Child Labor



In 1913, the Children's Bureau was one of four original offices at the newly-created Department of Labor. A staff of 15 people compiled and studied child labor regulations, making recommendations that

established the first federal child labor law in 1917 – which was ruled unconstitutional nine months later. The Fair Labor Standards Act of 1938 eventually established child labor provisions originally recommended by the bureau – now upheld by the courts – as the bureau itself had since moved to the Department of Health, Education and Welfare (which later split into the Department of Education and the Department of Health and Human Services).

To combat child labor abroad among other activities, President Truman created the Bureau of International Labor Affairs, or ILAB, in 1947. The



department's international efforts expanded even more when then-Secretary of Labor Alexis M. Herman established ILAB's Office of Child Labor, Forced Labor and Human Trafficking in 1997.

- View a Copy of the Law Establishing the Original Children's Bureau
• View a CBS News Slideshow on Child Labor
• View the Centennial Video

What's New

Grants and On-the-Ground Help for Communities Hit by Sandy

The department's efforts to assist communities stricken by Hurricane Sandy continues with emergency funding, safety assistance, and other help for the cleanup and recovery efforts following massive flooding and other damage in several states. Secretary Solis approved a \$1.8 million National Emergency



Grant to assist Connecticut with cleanup along the state's coast. This followed more than \$44 million in disaster grants previously provided to New Jersey, New York and Rhode Island. The Occupational Safety and Health Administration has more than 60 staff members on the ground in the region to train employers and workers on hazards, and is helping workers obtain personal protective equipment necessary to perform clean-up activities. OSHA is also collaborating with the U.S. Environmental Protection Agency to educate workers and members of the public engaged in flood clean-up activities in New York and New Jersey. In addition, the Employee Benefits Security Administration has issued guidance for compliance with employee benefit plan rules for those adversely impacted by the storm. The guidance applies to employee benefit plans, plan sponsors, as well as service providers to employers located in disaster areas.

- Read the Emergency Grant Announcement
• Read the OSHA/EPA News Release
• Read the EBSA News Release

National News

Proposal on Employer Wellness Programs Announced

Moving forward on implementing the Affordable Care Act, the Employee Benefits Security Administration announced on Nov. 20 a proposed rule to promote and encourage the use of wellness programs by employers. Such programs are designed to promote health among workers and also control health care spending. They do this by offering premium discounts to individuals who meet certain health-related standards, such as not smoking or having a certain body mass index. "The Affordable Care Act recognizes that well-run, equitable workplace wellness programs allow workers to access services that can help them and their families lead healthier lives," said Secretary Solis. "Employers too can benefit from the reduced costs associated with a healthier workforce." The proposed rule on employment-based wellness programs was announced jointly with the Department of

Offering a Second Chance



The likelihood that a young person leaving the juvenile justice system will fall back into a cycle of poverty and crime is high. Breaking that cycle is the goal of the nearly 100 representatives from nonprofit organizations who attended last week's new grantee orientation meeting in Washington, D.C.

Twenty-five community-based organizations around the country received nearly \$50 million in grants in June from the department to improve labor market prospects for former youth offenders

in high-poverty, high-crime areas. The grantees will help at-risk youth by offering training in high-demand industries and occupations within their communities. "We know many of the folks here with us aren't doing this work for the fame and fortune," Secretary Solis told the group. "You have a special calling to turn people's lives around."

- [Read the Announcement of the Awardees](#)
- [View the Slideshow](#)

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## Thanksgiving Benefit for Homeless

Students from the Charleston Job Corps Center in West Virginia helped prepare and serve food for about 200 dinner guests at a Thanksgiving Benefit



Dinner. The event raised money for the local YWCA Sojourners Women's Shelter for homeless women and children. The effort by students not only helped them practice their customer service skills but also provided them "with the joy of giving back to their community and helping others," said Center Director Curtis Price.

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## 'It's All of Us!'



Business owners and advocates gathered at the National Building Museum in Washington, D.C., on Nov. 16 for the National Gay & Lesbian

Chamber of Commerce 10th Anniversary National Dinner. Kathy Martinez, assistant secretary of labor for disability employment policy, co-chaired the dinner with Michael Robinson, IBM program director for global supplier diversity. The honorees were Secretary of State Hillary Clinton and equality activist/actress Judith Light, leading LGBT business owners, entrepreneurs and corporate leaders from across the country. The Office of Disability Employment Policy has partnered with the NGLCC in its "Campaign for Disability Employment" and through its "Add Us In" initiative, both of which work to ensure positive employment outcomes for individuals with disabilities. "I applaud the NGLCC for bringing these diverse communities together and turning the old adage 'It's us or them' into simply 'It's all of us,'" Martinez said.

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## Protecting Northeast Workers

A new agreement signed on Nov. 14 by the Wage and Hour Division and the Philippine Consul

Health and Human Services, which released other health care proposals.

- [Read the News Release](#)

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## International Scene

### Taking the Worker Safety Message to China

Two Labor Department advocates for worker safety traveled to Beijing this week to deliver remarks at The First U.S.-China Workplace Safety and Health Dialogue. Joseph Main, assistant secretary of labor for mine safety and health, along with Dr. David Michaels, assistant secretary of labor for occupational safety and health, were among the dignitaries invited to speak



Nov. 14. In the first of several sessions, Main took part in the commemoration of 10 years of cooperation between the two countries on mine safety and health. Among the initiatives that have cemented the relationship between the two countries over the past decade are mine rescue training and competition, technical seminars on new mining technology, a joint project for safety and health improvements in Chinese coal mines, and coal mine safety enforcement through the development of regulations and inspections. Dr. Michaels spoke about the importance of understanding and shaping modern worker safety and health programs in the United States and China, and their added benefits to trade and economic growth. He discussed the potential of injury and illness prevention programs, scientific studies that show enforcement reduces injuries and saves businesses money, and training programs for workers and employers.

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## News You Can Use

### Disclosing Retirement Plan Costs

Employers that provide retirement plan benefits to their workers need to know the costs associated with sponsoring such plans, according to Assistant Secretary of Labor for Employee Benefits Security Phyllis Borzi. "Vendors that service retirement plans need to disclose the costs to employers so that they can make informed choices about their plans and plans' investments," she told a gathering of plan sponsors and benefits law specialists last week in Dallas. "We hear that some service providers are offering to package that information on behalf of employers who would then provide it to plan participants as they're required to do. But unless plan sponsors see this information directly and assemble it on their own, they're likely to overlook vital information that can help their plan and their business save money."

- [Read the Fact Sheet](#)
- [Learn About 401\(k\) Plan Fees](#)

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## DOL Working for You

### Job Corps Alumnus Proves Program Works

As a teenager, Californian Carl Adams hung around with the wrong crowd and picked up some bad habits. They followed



General bolsters the collaborative relationship between the department and the Philippines to protect worker rights in the Northeast. Training and education will be provided to workers on topics such as minimum wage, overtime compensation, child labor standards and migrant labor housing and transportation. The signing ceremony comes in the wake of similar agreements with Central and South American countries and highlights the department's efforts to expand partnerships globally.

- [Read About International Partnerships.](#)

## Connecting Congregations



More than 200 people from across the Washington, D.C., area, including faith leaders, nonprofit staff, community volunteers, job seekers and

employers showed up on Nov. 16 for a regional Job Clubs Symposium in Montgomery County, Md. The Center for Faith-based and Neighborhood Partnerships teamed up with People-4-People Employment Assistance Program and Montgomery County Council member Nancy Floreen to host the event. Job club leaders from Maryland and Virginia discussed how to start and run a job search support group. A second panel of leaders from Washington area workforce agencies and other groups provided information on how job clubs can partner with the workforce system to offer a more comprehensive set of services to their members. The symposium was capped by remarks from Max Finberg from the White House Office of Faith-based and Neighborhood Partnerships, who relayed the president's appreciation of the role congregations play in helping people get back to work through career ministries.

- [View the slideshow.](#)

## Cracking Down on Traffickers

With California stakeholders convening Nov. 16 to discuss a sobering new report about the problem of human trafficking in the state, Secretary Solis



appeared with state Attorney General Kamala Harris to discuss the administration's commitment to fight what President Obama has called "modern-day" slavery. In a keynote address at the University of Southern California, Solis outlined department-led efforts to train wage and hour investigators to spot warning signs of trafficking



him to Job Corps in 1996 and then caused him to be dismissed from the program. But he got his life together, rejoined the Job Corps and graduated from the Los Angeles Center with

expertise in computers. He found employment at nearby Long Beach Job Corps as a residential advisor, rose through its ranks, and now serves as the Center Standards and Incentives Manager. Adams, who is earning a degree in business management, is known for mentoring students through their academic courses and technical training to help them achieve positive outcomes at Long Beach. Earlier this month, Adams' hard work and determination were rewarded with the Linda R. Jackson Award from Job Corps. This award honors the memory of the former chief of the Job Corps Support Division and goes to a staffer who "best exemplifies innovation, determination and integrity." Adams called his job rewarding "because it gives me the opportunity to give trainees what was given to me, mentorship and guidance."

## Grants Boost Entrepreneurs for 'Small Business Saturday'

The shopping day between Black Friday and Cyber Monday has been designated as "Small Business Saturday" in an effort to promote small businesses. Department funded programs like National Emergency Grants and the Self Employment Assistance Program teach would be entrepreneurs business and marketing strategies for starting a company. A NEG helped laid-off banker David Alperin start his Brooklyn, N.Y., men's fine clothing store, Goose Barnacle, two years ago. Alperin said his business has done well and allowed him to hire help.



"My company is growing one customer at a time, focusing on product quality and customer service," Alperin said. David Mills of Eden, N.Y., turned to SEAP after he was laid-off from his digital sculpting job at a national toy manufacturer. He started BkJ Design, specializing in converting two dimensional design drawings into 3D digital products. BkJ produces consumer goods ranging from toys to golf equipment and, he said, business is up 30 percent over last year. Mills said SEAP "got me started on the right foot."

## DOL in Action

Texas Company Cited After Crane Collapse That Killed 2 Workers

Harrison Hoist of Grand Prairie, Texas, was cited by the Occupational

and help survivors recover lost wages and find employment to get back on their feet. She also reviewed efforts by the Bureau of International Labor Affairs to combat forced labor and the trafficking of children around the world. She noted that the department is part of a multi-agency anti-trafficking coordination team in Los Angeles and shared stories of efforts to partner with law enforcement to put traffickers behind bars. "We have to change the perverse calculus of gangs and smugglers who believe the rewards of trafficking outweigh the criminal risks," Solis said. "Only by working together can we bring these criminals to justice. Only by working together can we give their innocent victims the courage to escape and start over."

- [Read the Secretary's Remarks](#)
- [Read the Calif. Report](#)

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## JFK50: Justice for All in LA

Caroline Kennedy, president of the John F. Kennedy Library Foundation presented the second in a series of JFK50: Justice for All events at the acclaimed Museum of Tolerance in Los Angeles on Nov. 15. Eleanor Clift, noted journalist and author, moderated the discussion, which focused on workplace and workforce diversity. Secretary Solis joined a panel that included Dr. Wanda Austin, Aerospace Corporation president/CEO; Kamala Devi Harris, attorney general of California; Thurgood Marshall Jr.; William H. Swanson, chairman/CEO of Raytheon Company; and Antonio R. Villaraigosa, mayor of Los Angeles. Solis was the first woman to receive the John F. Kennedy Profile in Courage Award in 2000 for her pioneering work on environmental justice issues. "There is a bottom-line benefit to diversity: it fosters better decision-making, generates better solutions and delivers better outcomes," Solis said during the discussion. "Simply put, diversity is better for workers, employers and customers."

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## Safety Committee in Action

The National Advisory Committee on Occupational Safety and Health, which meets twice annually to advise the secretaries of labor and health and human services on worker safety, convened Nov. 14-15, in Washington, D.C. The committee's Effectiveness Measures Work Group furnished recommendations on measuring the efficacy of OSHA strategies, programs and actions and sent a report to the full membership. The second day welcomed remarks from Deputy Assistant Secretary of Labor for Occupational Safety and Health Jordan Barab, who highlighted the progress of corporate-wide settlement agreements and a Centers for Medicare and Medicaid Services agreement to boost patient/worker safety. NACOSH voted on recommendations made by the full committee, including injury and illness prevention programs and poultry processing.

Safety and Health Administration with six serious safety violations following a tower crane collapse that killed two workers. The workers were trying to remove the top portion of the crane's mast when it collapsed at the Richardson campus of the University of Texas at Dallas. The workers fell more than 150 feet. Violations include the company's failure to address the hazards associated with the effects of wind speed and weather on the equipment and to ensure that procedures for disassembling the tower crane prevented the collapse of any part of the equipment.

- [Read the News Release](#)

### Convenience Store Cited Following Death of Worker

TMT Inc. of Dallas, Texas, was cited by the Occupational Safety and Health Administration with four serious safety violations following an aggravated robbery that resulted in the death of an employee at the company's Whip In convenience store in Garland. OSHA's Dallas Area Office opened an investigation at the Garland store in May after an employee working at the checkout counter was seriously assaulted during a robbery and later died from second- and third-degree burns. OSHA also investigated the company's three other stores in Dallas and Mesquite, and found that workers at those locations were exposed to similar workplace violence hazards.

- [Read the News Release](#)

### Construction Company Debarred After Wage Violations Discovered

P.S. Construction Group LLC has agreed to pay \$212,269 in back wages to 40 employees following an investigation by the Wage and Hour Division. Investigators found that the employees had been underpaid while performing general construction work on a renovation project for the city of Cleveland. The project was funded under an agreement with the U.S. Department of Housing and Urban Development. Investigators found that the company and its principal, Peter G. D'Agostino Jr., violated provisions of the Davis-Bacon and Related Acts as well as the Contract Work Hours and Safety Standards Act. The company also falsified payrolls to create an appearance that workers had received the correct wages. The company and D'Agostino have been debarred from competing for federal contracts for three years.

- [Read the News Release](#)

### Violations Found at Oil Field Services Company After 2 Injured in Fire

Vann Energy Services LLC in Nixon, Texas, was cited by the Occupational Safety and Health Administration with 13 safety and health violations for exposing workers to flash fires and other hazards. OSHA's Austin Area Office opened an inspection after two workers were injured by a fire that occurred in an oil and gas field tank. Penalties of \$246,000 have been proposed. Inspectors found that the employer had failed to ensure that the air inside the tank was tested for flammable or toxic materials before providing employees with electrical equipment that is capable of causing a potentially flammable environment to ignite. "The employer was notified in August 2011 of possible fire hazards, yet failed to take corrective action and ultimately two workers suffered the consequences," said Casey Perkins, OSHA's area director in Austin.

- [Read the News Release](#)

### Florida Bird Sanctuary to Pay Back Wages

Suncoast Seabird Sanctuary Inc. in Indian Shores, Fla., has agreed to pay

## Equal Employment For All

Ensuring nondiscrimination and equal opportunity for individuals served by American Job Centers is the shared interest of the Office of Disability Employment Policy and the National Association of State Workforce Agencies. Assistant Secretary of Labor for Disability Employment Policy Kathy Martinez described department initiatives aimed at increasing the employment of individuals with disabilities in a Nov. 14 teleconference with 40 NASWA members. One of them, the Disability Employment Initiative, is an ODEP effort with the Employment and Training Administration to increase the capacity of the workforce development system to provide integrated and accessible services to people with disabilities.

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## ERISA Council to Meet

Due to a postponement caused by Hurricane Sandy, the final meeting of the year of the Advisory Council on Employee Welfare and Pension Benefit Plans, known as the ERISA Advisory Council, has been rescheduled for Nov. 26-27 at the department's headquarters. Members of the council will send recommendations to the secretary of labor on issues relating to disability benefits for participants in defined contribution plans, current challenges and best practices concerning beneficiary designations in retirement and life insurance plans, and income replacement during retirement years in a defined contribution plan system.

- [Read the News Release](#)

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## Weekly UI Claims

The department reported the advance figure for seasonally adjusted initial Unemployment Insurance claims was 410,000 for the week ending Nov. 17, a decrease of 41,000 from the previous week. The four-week moving average was 396,250, up 9,500 from the previous week's revised average of 386,750.

- [Read the News Release](#)

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## Upcoming Deadlines & Events

### [Open Funding Opportunities](#)

EBSA — The Affordable Care Act: Important New Protections for You and Your Family Webcast

- [November 28 — Online](#)

OFCCP — Community Based Education & Outreach

- [December 6 — Memphis, TN](#)
- [December 13 — Memphis, TN](#)
- [December 20 — Memphis, TN](#)

\$21,336 in back wages to nine employees following an investigation by the Wage and Hour Division that found violations of the Fair Labor Standards Act. The employer failed to pay some employees for several workweeks, which resulted in minimum wage violations. Additionally, some workers were paid fixed salaries without regard to the number of hours worked, which resulted in their pay falling below the federal minimum wage of \$7.25 per hour. These salaries also failed to include compensation for overtime hours — those beyond 40 per week — at time and one-half employees' regular rates, as required by the FLSA. Suncoast Seabird Sanctuary is a wild bird hospital.

- [Read the News Release](#)

Unexpected Machine Starts Found at Pork Processing Plant Cargill Meat Solutions Corp. has been cited with three safety violations for failing to protect workers from unexpected start-up of machines at its Beardstown, Ill., pork processing facility. The Occupational Safety and Health Administration has proposed penalties of \$114,000. One willful violation was cited for directing workers to perform maintenance and servicing on carbon dioxide equipment without first documenting lockout and tagout procedures designed to prevent unexpected energization. One repeat violation involved failing to train workers to properly control hazardous energy. A similar violation was cited in May 2009 at the company's Nebraska City, Neb., facility.

- [Read the News Release](#)

Back Wages for Workers at North Carolina Steakhouse Brasa Brazilian Steakhouse in Raleigh, N.C., has agreed to pay \$68,482 in back wages to 18 workers following an investigation by the Wage and Hour Division that found violations of the Fair Labor Standards Act. Investigators determined that the employer paid kitchen staff "straight time" rates for overtime hours — those beyond 40 in a workweek — rather than time and one-half the employees' regular rates as required. Additionally, the employer improperly calculated overtime for tipped employees. Finally, the employer failed to pay some employees for all hours worked, which resulted in minimum wage violations.

- [Read the News Release](#)

Boiler Maker in Texas Cited During Follow-up Inspection Williams & Davis Boilers Inc. were cited by the Occupational Safety and Health Administration with nine safety violations for continuing to expose workers to fall and other hazards at the company's facility in Hutchins, Texas. A May inspection was conducted as a follow-up to another in July 2011. The willful violation involved operating a 10-ton overhead crane without bridge brakes and failing to ensure that the crane had sufficient clearance to prevent the bridge from striking the building. "This employer is well aware of the hazards to workers and has had several opportunities to come into compliance with OSHA's safety standards. Instead, the employer has continued to allow the conditions to exist while putting workers at risk of injury or much worse," said Stephen Boyd, OSHA's area director in Dallas. Proposed penalties total \$131,670.

- [Read the News Release](#)

Airport Services Company Underpaid Workers in Denver Flight Services and Systems Inc. has paid \$12,720 in back wages to 183 current and former airport employees in Denver following an investigation by the Wage and Hour Division that found violations of the Fair Labor Standard Act. The employer has been assessed \$40,260 in civil penalties for the

OFCCP — Compliance Assistance Seminar

- [November 28 — Boston, MA](#)
- [December 5 — Boston, MA](#)
- [December 12 — Boston, MA](#)

OFCCP — Compliance Assistance Seminar — Construction Contractors

- [November 29 — Memphis, TN](#)
- [December 20 — Miami, FL](#)

OFCCP — Compliance Assistance Seminar — Supply & Service Contractors

- [November 27 — Milwaukee, WI](#)
- [November 28 — Nashville, TN](#)

OFCCP — Construction — Nuts and Bolts

- [December 5 — Houston, TX](#)

OFCCP — Construction Requirements

- [December 6 — Columbus, OH](#)

OFCCP — How to Develop an AAP — Small and First Time Contractors

- [December 5 — Houston, TX](#)

OFCCP — Incumbency vs. Availability Seminar

- [December 19 — Milwaukee, WI](#)

OFCCP — Internet Applicant Recordkeeping Rule

- [December 20 — Omaha, NE](#)

OFCCP — Retaliation Complaints

- [December 6 — Omaha, NE](#)

OFCCP — Workplace Accommodations under the Rehabilitation Act of 1973

- [December 5 — Chicago, IL](#)

OSHA — Advisory Committee on Construction Safety and Health

- [November 27-30 — Washington, DC](#)

WB — Improved Outcomes for Women Veterans: Brain Injury Services As Part of a Trauma-Informed Environment

- [November 28 — New York, NY](#)

repeat and/or willful nature of the violations. The investigation, which was conducted by the Denver District Office, found that the company made improper deductions from employees' paychecks for uniforms.

- [Read the News Release](#)

Wage Violations Found at North Carolina Restaurant

Dos Taquitos Mexican Restaurant in Raleigh, N.C., has agreed to pay 26 employees \$48,125 in back wages following an investigation by the Wage and Hour Division that found violations of the Fair Labor Standards Act. Investigators discovered that employees were paid fixed salaries without regard to the number of hours worked that resulted in the employees' regular rates of pay falling below the minimum wage. The employer also failed to pay overtime compensation at time and one-half the employees' regular rates for hours over 40 in a work week and employed a 14-year-old who was allowed to work beyond the hours permitted by FLSA's Child Labor Regulation No. 3.

- [Read the News Release](#)

Workers Hospitalized Following Fire at Connecticut Manufacturer

Uretek Archer LLC, a urethane coating and laminate fabric manufacturer in New Haven, Conn., has been cited by the Occupational Safety and Health Administration after four workers were hospitalized in August because of a machine fire. The agency found two repeat violations similar to violations cited during a 2008 inspection, and four serious violations. The inspection revealed that Uretek did not meet OSHA's hazardous energy control requirements, such as shutting down and securing the power source before maintenance of the machine that caught fire, among other violations. The fire occurred when a flammable solvent used to clean machines ignited. OSHA found that the employer had not taken adequate precautions to eliminate potential ignition sources and that the fire alarm system was inoperable.

- [Read the News Release](#)

Pittsburgh Restaurant Faulted for Wage Violations

Point Brugge Café, a full-service restaurant in Pittsburgh, has paid \$37,719 in back wages to 39 employees after an investigation by the Wage and Hour Division found violations of the Fair Labor Standards Act. The restaurant required tipped employees to repay register shortages, which resulted in their pay falling below the federal minimum wage. The employer also failed to reimburse servers for tips that they were illegally required to pay out to dishwashers, a nontipped occupation.

- [Read the News Release](#)

Criminal Indictment for Misuse of Retirement Funds

Working in coordination with the U.S. attorney's office in Chicago, the Employee Benefits Security Administration has secured a five-count criminal indictment against ophthalmologist Nicholas Caro, sponsor of a defined benefit plan for employees of his Chicago practice. The indictment alleges that between April 2006 and October 2009, Caro engaged in a scheme to defraud the pension plan and its participants of approximately \$180,000 in plan funds. Caro used the funds to pay his own personal expenses, or to pay other expenses unrelated to the proper and legitimate management of plan assets, according to the indictment. Specifically, the indictment alleges one count of embezzlement and four counts of mail fraud. The count for embezzlement carries a maximum penalty of 10 years in prison and each count of mail fraud carries a maximum penalty of 20 years in prison. All of

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the counts carry a maximum fine of \$250,000, and restitution is mandatory.

#### Manufacturing Company Exposed Workers to Amputation Hazards

ProMaxima Manufacturing Ltd. in Houston was cited by the Occupational Safety and Health Administration with nine serious safety violations for inadequately guarded machinery and other hazards. OSHA's Houston South Area Office opened an inspection in response to a referral from the Office of Federal Contract Compliance Programs about workers seen using inadequately guarded saws and grinders. ProMaxima manufactures fitness equipment for various federal agencies. Penalties of \$47,700 have been proposed.

- [Read the News Release](#)

#### Idaho Union to Rerun Election for President

Officers of the American Federation of Government Employees Local 1120 in Boise, Idaho, have agreed to conduct a new runoff election for the office of president under supervision of the Office of Labor-Management Standards no later than March 31, 2013. An investigation established that Local 1120 failed to elect by secret ballot when in fact the identity of members casting ballots using the union's Internet electronic voting system could be linked with their vote, and the vote of a member who cast a ballot by mail could be easily identified. Additionally, the union did not provide candidates the opportunity to have observers at each stage of the election process because the election was conducted outside of the local union's jurisdiction using an electronic voting system.

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