

November 2011

FOCUS

Stowe Associates Insurance and Compliance Tips Newsletter



Experience and Expertise in Employee Benefit Solutions

www.stoweassociates.com

Learn about our suite of services available at no additional cost!

During the economic downturn and resulting budget cuts, many employers are having difficulty funding all of their Risk Management and Human Resources functions and services. In this era of ever increasing employer liability it is more important than ever to comply with government regulations. Stowe Associates offers many complimentary compliance assistance services.

For more information or to request a no obligation demonstration contact your Stowe Associates representative or Alison Smith at asmith@stoweassociates.com or 770-451-6222.

US Department of Labor's OSHA cites Illinois Pet Food Production and Packaging Company for 23 Health and Safety Violations; Fines Exceed \$750,000

All-Feed Processing & Packaging failed to protect workers from dust and noise exposure

The U.S. Department of Labor's Occupational Safety and Health Administration has cited All-Feed Processing & Packaging Inc., for 23 safety and health violations at its pet food production and packaging facility, including willful violations of OSHA's air contaminant, respiratory protection and hearing conservation standards. Some violations were cited under OSHA's "general duty" clause, including failing to provide appropriate fire and explosion protection in locations where concentrations of combustible dust existed. Proposed fines total \$758,450.

OSHA issued nine per-instance willful citations for failing to mandate the use of respirators for six workers exposed to dust in excess of the permissible exposure limits; and failing to protect three dust collection units, which collect combustible dust such as starch, potato base, cellulose fiber and pea protein, from fire and explosion hazards.

Additionally, four single-instance willful citations were issued for requiring employees to work in areas where they were exposed to total dust in excess of permissible limits, together with failing to implement adequate engineering controls when employees were so exposed; failing to administer a continuing and effective hearing conservation program for employees exposed to excessive noise; failing to ensure the safe use, wiring and installation of equipment in hazardous locations; and allowing the use of liquid propane-powered industrial trucks in atmospheres where combustible dust may be ignited. A willful violation is one committed with intentional knowing or voluntary disregard for the law's requirements, or with plain indifference to worker safety and health. Proposed fines for the 13 willful violations total \$700,700.

FOCUS**Stowe Associates Compliance Tips**

Continued From Page 1

Three repeat safety violations were cited for failing to ensure that operators of powered industrial trucks had completed training and were evaluated on their skills, have the load rating affixed to lifting devices and post danger signs to warn exposed employees of potential dangers posed by work spaces involving hazardous conditions. One repeat health violation was cited for failing to post safety instruction signs indicating the presence of combustible dust. A repeat violation exists when an employer previously has been cited for the same or a similar violation of a standard, regulation, rule or order at any other facility in federal enforcement states within the last five years. The company was cited for similar hazards in 2009. Proposed fines for the four repeat violations total \$50,050.

One serious safety violation, with a proposed fine of \$3,850, was cited for failing to have a written certification indicating that all hazards in the permit-required confined space had been eliminated. A serious violation occurs when there is substantial probability that death or serious physical harm could result from a hazardous condition about which the employer knew or should have known.

All-Feed Processing & Packaging also was cited for five other-than-serious violations, with proposed fines of \$3,850, for failing to record work-related injuries and illness as required on the OSHA 300 log. Another-than-serious violation is one that has a direct relationship to job safety and health, but probably would not cause death or serious physical harm.

Mississippi Business Owners Charged with Harboring Illegal Aliens

A Mississippi couple was arraigned in federal court Thursday on a multi-count indictment charging them and their company, Love Irrigation, Inc., with conspiracy, harboring illegal aliens and encouraging illegal aliens to reside in the United States. They were also charged with improper use of Social Security numbers and making false statements on immigration forms.

If convicted, the couple faces a maximum sentence of 40 years in prison and/or a \$3 million fine. Love Irrigation, Inc. faces a maximum fine of \$1.5 million and up to five years probation.

From 2003 through 2010, the company continued to employ, and even rehired, illegal aliens, despite being told by certain aliens that they were in the country illegally.

In May 2008, ICE HSI visited Love Irrigation and instructed the couple on how to properly complete Forms I-9, verify Social Security numbers and participate in the E-Verify program. Afterwards, ICE HSI reviewed the company's I-9 forms and informed the Loves that seven employees were in the country illegally and must be terminated. Rather than terminate the illegal alien employees, Love Irrigation, the company continued to employ them and took affirmative steps to hide the illegal alien employees from detection. The couple then classified the illegal alien employees as "contract labor" and ceased reporting them to the Mississippi Department of Employment Security (MDES) as required by law. Further, the company stopped paying the illegal alien employees in checks at the company offices and began paying them in cash at off-site locations. Crew supervisors were also instructed to pick up and drop off the illegal alien employees at covert locations other than the company offices.

FOCUS**Stowe Associates Compliance Tips**

Continued From Page 2

The indictment further alleges that, in 2010, Love Irrigation began resubmitting the names of its illegal alien employees to MDES, using the exact same names and Social Security numbers for some, but using different Social Security numbers for others previously identified by ICE HSI in 2008. The couple also began falsifying I-9 forms in 2010, listing false employment start dates for various illegal alien employees, while listing different Social Security numbers from those used by the same illegal alien employees on the forms in the past and previously reported to the MDES. ICE HSI executed a criminal search warrant on Love Irrigation's offices in July 2010.

If you would like to unsubscribe to future communications please e-mail asmith@stoweassociates.com.



Stowe Associates
Employee Benefits and HR Compliance

3084 Mercer University Drive Suite 210 Atlanta, Georgia 30341 770-451-6222 800-533-7896

Fax Numbers: Front Office 770-216-4013 Sales/Marketing 770-936-2638

www.stoweassociates.com