



# CHICAGO *LINE*

THE MONTHLY NEWSLETTER OF THE CHICAGO METAL FINISHERS INSTITUTE

## MAY 2010

### Calendar of Events

**MAY 6, 2010**

CMFI Board of Directors Meeting  
Rosewood Restaurant  
Rosemont, IL

**MAY 20, 2010 {ON 3<sup>rd</sup> THURSDAY}**

CMFI Member Meeting  
The Wellington Restaurant  
Arlington Heights, IL

**JUNE 14-17, 2010**

NASF SUR/FIN  
Devon Place  
Grand Rapids, MI

**SEPTEMBER 16, 2010**

### JOINT CMFI/CASM DAY AT THE RACES

#### ARLINGTON PARK RACE TRACK

Mark your calendars now to attend a fun-filled afternoon at the Arlington Park Race Track with your customers from the Chicago Association of Spring Manufacturers. The event is sponsored by CASMI with a special invitation to CMFI members to attend. Watch your mail for a flyer giving all the details which should reach you in the early part of summer.

**HERE COMES SUMMER SO REMEMBER:  
NO NEWSLETTER DURING THE SUMMER  
MONTHS. LOOK FOR US AGAIN IN  
SEPTEMBER.**

### CMFI MEMBER MEETING

▶▶▶▶ **MAY 20, 2010** ◀◀◀

**Note: Meeting is on the THIRD THURSDAY  
of May instead of the usual fourth Thursday**

**The Wellington Restaurant  
2121 S. Arlington Heights Road  
Arlington Heights, IL  
6:00-9:00 PM**

### ***EPA CRIMINAL ENFORCEMENT OVERVIEW***

### **CHRISTOPHER PULLOS**

Christopher Pullos has worked as a Special Agent for the U.S. Environmental Protection Agency EPA for nearly 13 years's. Chris will provide a brief overview of the laws enforced by the EPA Criminal Investigation Division, as well as case examples from past investigations. He wants to assure all our members that this is strictly an information presentation and promises that your attendance will absolutely NOT put you on any EPA "hit list" for inspections. Our Program Chair, Dave Cozzi, has attended a previous presentation by Chris and said it's absolutely riveting and not to be missed.

**FOR RESERVATIONS:** mail in your pink card; fax (773-784-1304) or e-mail ([cmfi@netzero.net](mailto:cmfi@netzero.net)) to the Institute office ASAP.

## **HEALTHCARE REFORM; SMALL EMPLOYER TAX CREDIT**

*From: HR.com 4/8/10*

With the recent passage of the Patient Protection and Affordable care Act (commonly known as healthcare reform) Certain small employers who provide healthcare coverage to their employees are entitled to a tax credit. The credit is effective with tax years beginning in 2010. The IRS has issued information on the credit as it applies for 2010-2013, including information on transition relief for 2010. An enhanced version of the credit takes effect in 2014.

**Eligible small employers.** Small employers that provide health care coverage to their employees and that meet certain requirements (qualified employers) generally are eligible for a federal income tax credit for health insurance premiums they pay for certain employees. In order to be a qualified employer:

•An employer must have fewer than 25 full-time equivalent employees (FTEs) for the tax year.

•The average annual wages of its employees for the year must be less than \$50,000 per FTE, *and*

•The employer must pay the premiums under a "qualifying arrangement".

Under a "qualifying arrangement", the employer pays premiums for each employee enrolled in health care coverage offered by the employer in an amount equal to a uniform percentage (not less than 50%) of the total premium cost of the coverage. If an employer pays only a portion of the premiums, only the portion paid by the employer is counted in calculating the credit. The amount of an employer's premium payments that counts

when calculating the credit may not exceed the average premium for the small group market in the particular state (or an area within the state) in which the employer offers coverage for the same arrangement. The average premium for the small group market in a state will be determined by the Department of Health & Human Services and published by the IRS (also available on the IRS website).

There are numerous other considerations for the tax credit too numerous to include in this article including:

Maximum credit amount

Credit reductions

Determining the number of FTEs

Determining the amount of average annual wages

Disregarded workers

Controlled groups

Claiming the credit

Effect on employer's deduction for health insurance premiums

Transition relief for tax years beginning in 2010

More information can be obtained on the IRS website: [www.irs.gov](http://www.irs.gov) or for the entire version of this article, visit:

<http://hr.blr.com/HR-news/Benefits-Leave/Healthcare-Insurance/Healthcare-Reform-Update.com>

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## **SUPREME COURT CUTS POLLUTERS A BREAK IN CLEANUP CASE**

*By Bret A. Stone, Esq.*

Ed Note: Although this is a year-old case, I found it extremely interesting

The United States Supreme Court ruled against the federal government and declared that Shell and units of Burlington Northern Santa Fe and Union Pacific do not have to pay for most of the \$8 million cost to clean a polluted chemical site in California. *Burlington Northern & Santa Fe Railway Co. v. United States*, \_\_\_ S.Ct. \_\_\_, 2009 WL 1174849 (S. Ct. May 4, 2009). The court agreed that Shell was not responsible for the damage because it had only provided chemicals to the site and had encouraged proper handling. With respect to the railroads, the court found their liability could reasonably be apportioned to just 9%.

The facts of the case center around the operations of a now-defunct agricultural chemical distributor, Brown & Bryant, Inc. ("B&B"), which operated a facility at which toxic chemicals were stored and distributed. B&B purchased its pesticides and other chemical produces from suppliers such as Shell Oil Company ("Shell"). Shell would send the products to B&B f.o.b. destination and deliver them to on tanker trucks. The chemicals would be transferred to bulk storage upon arrival. From there B&B would transfer the products to its own equipment for use in the field. During each of these transfers leaks and spills occurred.

Part of the land on which the chemical operation was located was owned by two railroad companies. Although the railroads never operated the facility, they were found liable as owners of the facility and as persons who "at the time of disposal of any hazardous substance owned or operated any facility at which such hazardous substances were disposed of." Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9607(a)(1). The district court held the property owners liable for only a minor portion of the total

cleanup costs, but the Ninth Circuit reversed finding that full joint and several liability should have been imposed on the railroads as property owners. The Supreme Court found, however, that the district court's analysis of "volumetric, chronological, or other types of evidence" was reasonable.

The Supreme Court decision also cut polluters a break with its interpretation of "arranger" liability. Under CERCLA, any person that "arrange[s] for disposal . . . of hazardous substances" may be held liable. CERCLA, 42 U.S.C. § 9607(a)(3). The term "arranger" does not include the selling of a new and useful product if the purchaser later, and unbeknownst to the seller, disposes of product in a way that leads to contamination. Less clear, however, is whether the seller may be liable if it has some knowledge of the buyer's planned disposal. The court concluded that knowledge alone is insufficient to prove that an entity "planned for" the disposal, particularly when the disposal occurs as a peripheral result of a legitimate sale of an unused, useful product. Some level of intent to dispose of a hazardous substance is required. The court found that Shell took numerous steps to encourage its distributors to reduce the likelihood of spills, providing them safety manuals, requiring them to maintain adequate storage facilities, and providing discounts for those that took safety precautions. Although these efforts were not entirely successful, the court found that Shell's mere knowledge that spills and leaks continued to occur was insufficient grounds for concluding that Shell "arranged for" the disposal.

This decision will no doubt have a major impact on government enforcement actions and private cost recovery actions alike. At the end of the day it could leave the government or the current landowner holding the bag.

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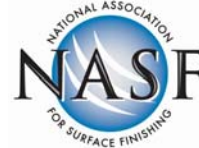
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## **SUR/FIN 2010**

**DeVos Place  
Grand Rapids, Michigan  
June 14-17**

**With more exhibitors to visit, more booths to view, a stellar conference program, and an easy drive from Illinois/Wisconsin, this is THE surface finishing event of the year!!!**

### ***DYNAMIC KEYNOTE SESSIONS***

**Dr. Ken Mayland returns to SUR/FIN with his latest business forecast. Attend SUR/FIN to hear his practical analysis, his take on the recovery signs and what' ahead for the industry.**

**The Center for Automotive Research panel discussion will include what to expect in the post-crisis automotive landscape. Among the many issues CAR will address: fuel economy, greenhouse emissions, new materials.**

**For more information, general registration, special rate at the host hotel (Amway Grand Plaza), contact: [cclark@nasf.org](mailto:cclark@nasf.org)**