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## HAPPENINGS FROM THE HILL

### American Industrial Hygiene Association Government Affairs Department

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### **What Will the New Year Bring?**

While Congress remains on its New Year vacation, there is no loss of “happenings” in Washington. Here’s a quick look at some of the issues being discussed:

#### **Budget**

Yes, we finally had a budget enacted in mid-December for fiscal year 2008. And let me tell you, trying to tap into the many figures to find out exactly what everyone received is no small task. Before I give you the details on the OSHA budget, understand that there was the president’s request for 2008, then the House version, followed by the Senate version, then an amended bill agreed to by both sides, then an across-the-board reduction of 1.74%. Presto! A final budget. Here is a look at the main figures in the OSHA budget for 2008 (which took effect last October 1).

### **OCCUPATIONAL SAFETY & HEALTH ADMINISTRATION Budget Authority (Dollars in Millions)**

	FY 2007	FY 2008	Change
Safety and Health Standards	\$ 16.892	\$ 16.597	\$ -0.295
Federal Enforcement	176.973	182.136	+5.163
State Programs	91.093	89.502	-1.591
Technical Support	22.392	21.681	-0.711
Federal Compliance Assistance	72.659	71.390	-1.269
State Consultation Grants	53.357	52.425	-0.932
Training Grants	10.116	9.939	-0.177
Safety and Health Statistics	32.374	31.522	-0.752
Executive Direction and Administration	11.169	10.809	-0.360
<b>Total, OSHA Budget Authority</b>	<b>\$486.925</b>	<b>\$486.001</b>	<b>\$ -0.924</b>

As you can see, the agency came out on the short end in '08 as compared to '07. Not a good sign for occupational safety and health. One other note to the OSHA budget. As sent to you earlier, the final bill included language requiring OSHA to inform Congress of progress on several standards. And lastly, the bill did not include a prohibition on OSHA to require annual respirator fit-testing for TB – but no specific word as to when OSHA will begin this requirement.

Over at MSHA the story was totally different. When enacted, the final appropriations bill provided MSHA with a \$32.355 million increase over '07. The final figure for 2008 is \$333.925 million. Of course, the problem here is that the reason MSHA was provided additional funding is because of the continued concern over the increase in mine fatalities. It is unfortunate that it takes a disaster to receive increased funding.

As for NIOSH, it is very difficult to figure out exactly what NIOSH will receive in funding because of the way the budget details are written. Your guess is as good as mine on this one. One summary shows a total of \$284 million, which includes the National Occupational Research Agenda funding. Another detail shows only \$230.5 million, but I am not sure this includes the Research Agenda, which was funded at \$113 million. Looking back at 2007, NIOSH received approximately \$315 million. Perhaps Dr. Howard will be able to straighten this out in short order.

What's Next? Hard to believe, but the President is in the midst of finalizing his fiscal '09 budget that is expected to be presented to Congress sometime in the next 30-60 days. And then we start all over again!

### **OSHA**

With the semi-annual regulatory agenda out there and being debated, OSHA is being asked numerous questions about its efforts.

A few weeks ago, the National Advisory Committee on Occupational Safety and Health held its first meeting in more than a year. NACOSH is an advisory committee that provides recommendations to the Secretaries of Labor and Health and Human Services concerning OSHA and NIOSH. While the Committee made no final recommendations, several issues were discussed. Most notably, the Committee expressed interest in permissible exposure limits, motor safety, and recordkeeping. OSHA personnel mentioned that nanotechnology is an emerging issue. Other issues on the list were immigrant workers, aging, and global harmonization.

The Agency has been active in the last few weeks. Out for comments is a proposed rule for confined spaces in construction, a notice of proposed rulemaking pertaining to a portion of the respiratory protection standard, and a proposed rule for revising the standards on general working conditions in shipyard employment. AIHA Committees have been contacted to elicit their thoughts on AIHA involvement in these proposals. The Agency also published a direct final rule in mid-December to remove references to consensus standards that duplicate or are comparable to other OSHA rules.

AIHA is also awaiting Agency language on a proposed rule that would make changes to Cooperative Agreements, notably a proposal to allow certain employers to avoid OSHA inspections. The comment period was supposed to be announced in January, but the Agency has not even published the request.

## **Congress**

Congress is expected to return to Washington later this month to begin the second session of the 110<sup>th</sup> Congress. Unfortunately, this could end up being a very light session in terms of occupational safety and health issues. There are several reasons for this.

*One.* Let's face it! We are in full-blown election mode. Because of that, Congress will tread very carefully in order to maximize their positions for the voters back home. Hopefully, they find a little time to address some of the issues. Insiders tell me not to expect Congress to spend more than six months doing business.

*Two.* According to others, Senator Kennedy has announced that the Senate Labor Committee will not take up any OSHA reform measures and will focus on mine safety issues. While mine safety is important, it is frustrating that OSHA issues will be set aside. Senator Kennedy introduced his OSHA reform bill last April and the bill has yet to have a hearing.

Over in the House, insiders tell me that mine safety will also be the first thing on the agenda. However, the House is a little further ahead of the Senate as they have a mine bill drafted and ready to go, the reason that mine safety will be first on the agenda.

And of course, it will indeed be very interesting to see how OSHA addresses the language in the appropriations bill that requires the Agency to report to Congress on its progress addressing various standards.

On another Congressional front, Congress has been told by the Department of Homeland Security that OSHA's role in the National Response Framework will not be changed. The Department said that OSHA will remain a "support annex" and therefore must wait for a signal from the Federal Emergency Management Agency before responding to a catastrophe. In my opinion, this has to be one of the biggest mistakes the Department of Homeland Security has made. Both NIOSH and OSHA have testified before Congress on the importance of raising the response level for OSHA but to no avail. I can't quite understand why Congress doesn't simply require Homeland Security to change their Response Framework. But then, it's always easier to talk about change than actually accomplish it!

Finally, a couple of legislative measures to mention. One is HR 365. This bill has been signed into law and provides for a research program for remediation of closed meth production labs. The law directs EPA to develop voluntary guidelines regarding preliminary site assessment and the remediation of residual contaminants. A program of research will also be developed to support the development of the guidelines. AIHA hopes to be involved in this effort.

A second bill, S 2526, was recently introduced to protect health care workers and first responders from workplace exposure to infections such as MRSA and pandemic influenza. If enacted, the bill would require OSHA to develop and issue an emergency temporary standard for the protection of these workers. AIHA will also closely follow this measure.

## **Employers Now Required to Address Ergonomics-Related Hazards**

Don't get excited! While this is true it only impacts our neighbors to the North. Final federal regulatory amendments in Canada now require ergo hazards to be addressed in designing hazard protection programs in the workplace. Employers must identify and assess the hazards, then develop preventive measures and education programs.

How did they do it? Seems the regulations came from recommendations of a working group composed of employer, employee, and government representatives. Gee, what a unique approach!

Canada has also proposed amendments that would provide protection against workplace violence for employees in federally regulated workplaces. The draft regulations are now open for public comment.

### **Want More Info?**

If you would like more information on any of the issues discussed in this issue let me know.

### **Federal and State Legislative Action Centers**

Visit the AIHA Federal Legislative Action Center to stay abreast of national issues important to occupational health and safety. The center can be found within the members-only section of the AIHA web page. Also available within this Action Center is the opportunity for any member to directly contact their elected officials in Washington simply by inserting their zip code. You can send an email or learn how to contact them by phone or mail. Take a look!

The State Center offers AIHA members the opportunity to monitor all state legislative sites, scan IH professional recognition/title protection laws in states where adopted, and even review and follow all state legislation being monitored in the state legislatures throughout the year. Included under each State site is access to the various state agencies, including the Governor's office and OSHA state plan sites. If professional recognition/title protection legislation has been enacted in a particular state, this law can also be found.

Another important feature is member access to each of the weekly legislative/regulatory reports sent to each state. With this access, members can follow any piece of legislation that may be of interest.

**For information on any of the items in this report, please contact Aaron Tripler.**