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## HAPPENINGS FROM THE HILL

### American Industrial Hygiene Association Government Affairs Department

Aaron K. Trippler, Director  
703-846-0730 [atrippler@AIHA.org](mailto:atrippler@AIHA.org)

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### Congress Back in Business

The 110<sup>th</sup> Congress convened in early January with new leadership and a new agenda. The first couple of weeks have been spent on various issues, most notably the “100 hour” agenda proposed by new House Speaker Nancy Pelosi. House Committees were told to forego any issues that were not on the “100 hour” agenda. Now, with the minimum wage and student loan issues behind them, we will see the House being tackling other issues.

Here’s where things stand:

- Budget. Upon reconvening, the first thing Congress did was pass a continuing resolution authorizing spending through this fiscal year (September 30) at the same rate as last year. To those agencies that were expected to take a hit in the 2007 budget that might sound like good news. However, when one figures in inflation and other uncontrollable line items, nearly every agency will have fewer dollars to spend this year.
- Legislation. AIHA is already monitoring and/or drafting comments on several pieces of legislation that has been introduced.
  - HR 108. This is a small business bill to provide funding for seminars to teach small business how to comply with federal regulations, including OSHA regs.
  - HR 141. A bill to require site-controlling employers to keep a site log for all recordable injuries and illnesses occurring among all employees, including sub-contracted employees.
  - HR 378. The first effort of this Congress to address ergonomics. The bill is limited to “nurse and safe-patient handling”, but would require OSHA to establish a Standard to prevent musculoskeletal disorders for nurses and other health care workers.
  - Asbestos. While no legislation has yet been introduced, Senator Patty Murray of

Washington has stated she will reintroduce her bill to ban asbestos use and importation to the U.S. She also stated she plans on conducting oversight hearings on OSHA and asbestos in the workplace.

- Leadership. We are still waiting for official word on the leadership positions on major committees of interest to AIHA. Some information we have.
  - Senate. Senator Edward Kennedy (MA) is now Chairman of the Senate Committee on Health, Education, Labor, and Pensions. Senator Michael Enzi (WY) is the Republican ranking member. The Committee has scheduled January 24 for official organizational meetings. It looks as though Senator Patty Murray (WA) will be named Chairwoman of the Subcommittee on Employment and Workplace Safety. The ranking Republican on the subcommittee is currently Senator Johnny Isakson (GA).
  - House. Representative George Miller (CA) is the new Chairman of the Education and Workforce Committee. Rep. Howard McKeon (CA) is currently the ranking Republican on the Committee. This committee will also be holding organizational meetings on January 24 to finalize membership. The subcommittee is where we will see major changes. Rep. Lynn Woolsey (CA) has been named as Chairwoman of the Workforce Protection Subcommittee. No word yet on the Republican membership.

## **Lawsuit to Force Personal Protective Rule**

In early January the AFL-CIO and the United Food and Commercial Workers filed a lawsuit to force OSHA to complete the rulemaking on employer payment for personal equipment. The lawsuit states that OSHA has been working on this rule for more than eight years and that nothing is standing in the way of OSHA finalizing the rule at this time.

A decision by the Occupational Safety and Health Review Commission way back in 1997 determined that employers did not need to pay for employee's personal protective equipment. However, at the time, the Secretary of Labor determined that the regulation language – requiring that personal protective equipment be “provided” – meant that the employer must pay for PPE.

OSHA then proposed a standard in March of 1999 requiring employers to pay for PPE. OSHA continues to say that the final rule is under “active consideration”, notwithstanding the fact that Congress has become involved through hearings and correspondence to OSHA demanding the rule be finalized. AIHA, as well as ASSE, and numerous other associations support finalizing the rule.

## **Ongoing Regulatory Activity**

- OSHA is accepting comments on revising and removing a number of provisions in various agency standards. The request for comments was in an advance notice of proposed rulemaking in late December, with comments due by February 20. The OSHA notice is the first step in the third phase of OSHA's Standard Improvement Project. This

project is intended to address rules that the agency says are confusing, outdated, duplicative, or inconsistent.

- NIOSH is seeking comments on revision of its sampling strategies document. The request for comments was published in late December with the comments due by February 28. The document in question was first published in 1977 and discusses monitoring employee exposures, determining need for exposure measurements, a sampling strategy, and the statistical analysis of exposure measurement sample results.
- EPA has abandoned its recent decision on controversial changes to its Toxics Release Inventory proposal. Notwithstanding the possible result of abandoning the recommended changes is the political implication of the change. Many believe the change means that EPA recognized the difficulty EPA may now have with controversial policy proposals and nominations in a Democratic Congress. EPA sent the letter announcing the change to Senator Frank Lautenberg who had been opposed to the EPA proposal.
- The Department of Labor and OSHA are still working on a response to the industry-filed case that would bar OSHA from citing non-consensus standards in the Haz Com Standard. DOL received a 30-day extension (to January 29) to file its brief. Industry has long tried to stop OSHA from citing the TLVs in the Haz Com Standard and a lawsuit to this effect was filed last year.

## **State Legislative Activity in Full Swing**

As January 2007 began, most of the State Legislatures convened to begin looking at legislative proposals. While many of the states meet for a short period of time, some actually meet only every other year, and many others will meet for six months or more this year.

Already we are beginning to see a number of legislative proposals that might impact worker health and safety. AIHA monitors all of the state legislative activity and attempts to look at some of the major issues that might be of interest. To monitor every bill would be too time-consuming. However, a quick look at the first three weeks of January:

- A total of 904 bills have been reviewed
- AIHA is monitoring 48 bills
- Bills have been introduced in 17 states
- Topics covered include IH and safety licensing, mold abatement, methamphetamine laboratory cleanup, OSHA civil penalties, workplace violence, exposure to hazardous materials, safe-patient handling, and indoor air quality.

## **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.

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.**