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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

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Congress Slow to Get Started on Occupational Safety and Health

While the news about the new Congress has been focused on how quickly the Democrats have moved to introduce their agenda, occupational safety and health issues haven't fared nearly as well.

Not quite sure whether or not occupational health and safety will even make the front page of agenda items in the House Education and Labor Committee. With the Democratic takeover of the House and new leadership in the Committee, Chairman George Miller (D-CA) has indicated that the Committee will step up oversight of administration efforts in mining issues. Rep. Miller has long been interested in mine safety and will now hold the administration accountable for implementation of the MINER Act, passed in the last session of Congress, as well as likely introduce additional legislation addressing miner safety and health.

While a look into miner safety and health does address worker issues, it doesn't exactly address many of the issues of professional associations such as AIHA. If occupational health and safety issues are to receive attention, they are likely to be taken up in the Subcommittee on Workforce Protection, where Rep. Lynn Woolsey (D-CA) is the new Chairwoman.

Unfortunately, this Subcommittee seems to be getting off to a rough start. There are five Subcommittees of the full House Committee. Membership on these subcommittees totals 29, 14, 23, 23, and then the Workforce Subcommittee has only eight members – five Democrats and three Republicans.

In addition to this, AIHA has held several meetings on the Hill to learn about priorities for occupational safety and health. There just doesn't seem to be any at this time. AIHA has been proactively pushing for the agenda to include taking a look at the process to update Permissible

Exposure Limits, adoption of the Globally Harmonized System, expanding OSHA coverage to include all public and private employees, and taking a look at increasing the penalties for a willful violation of the OSH Act that results in a fatality. We are hopeful that some of these issues will become a priority.

Methamphetamine Legislation Moves Forward

The House has approved and sent to the Senate legislation (HR365) that would establish voluntary guidelines for the cleanup of methamphetamine laboratories. The bill would require EPA to develop the guidelines for use by states and localities based on the best currently available scientific knowledge.

While the bill doesn't address specifics of who cleans up these labs, the guidelines are expected to address some of these issues.

Hex Chrom Still in the News

When the hex chrom rule was finalized, there were several lawsuits filed, some stating the new exposure limit was too low and others saying it was too high. Since then, one of these lawsuits has been settled and it now looks as though several others are about to be. The result of this settlement, when concluded, is that the lawsuit claiming the new exposure level is too low would be removed.

However, Public Citizen (the group that started the original lawsuit requesting the rule to be finalized) has announced that their latest lawsuit (claiming the new exposure level is still too high) would continue to move forward.

The extension to file briefs has been extended to April 9. On another note, OSHA has announced that they have not yet issued any citations under the new rule but that some inspections could lead to citations.

Agency Activity

OSHA

Several happenings at OSHA to report:

- OSHA must respond to a February 16 DC Circuit Court decision within thirty days on a lawsuit against OSHA that requires the agency to complete a rulemaking proposal on personal protective equipment. This rulemaking has been ongoing since 1999, with OSHA announcing that they hoped to complete the rule in May of this year. However, the lawsuit filed by the AFL-CIO and others states that OSHA's failure to complete this rulemaking is "unreasonable delay".
- OSHA has unveiled new workplace safety and health guidance that will help employers prepare for an influenza epidemic. The guidance document is intended for all types of workplaces, describes the differences between different types of influenza, and presents

other information on the nature of a potential pandemic. The document is available on the OSHA website.

- An informal stakeholder meeting will be held March 16 that will discuss occupational exposure to ionizing radiation. This first meeting will cover the uses of ionizing radiation in the healing arts. These planned meetings will continue OSHA's information collection efforts and will add to the information obtained in a request for information published back in May of 2005.
- OSHA is seeking comments on the extension of information collection requirements for its standard on formaldehyde. The formaldehyde standard requires an employer to monitor employee exposures, notify workers of their exposure levels, maintain exposure-monitoring and medical records for specified periods and provide OSHA access to records. Comments must be submitted by April 16.
- OSHA is also seeking comments on the extension of information collection requirements for its standard on access to employee exposure and medical records. This standard requires employers to provide employees and OSHA with access to exposure-monitoring and medical records. Comments must be submitted by April 16.
- OSHA has announced that nominations are being sought for the National Advisory Committee on Occupational Safety and Health. There are seven current vacancies on NACOSH – two public representative slots, one management representative, two labor representatives, one occupational safety profession rep, and one occupational health professional rep. There are 12 members on the committee. Nominations will be accepted until March 14. AIHA is planning on submitting nominees for the Committee.

For information on any of these items, visit the OSHA website at www.osha.gov

MSHA

The Mine Safety and Health Administration issued a directive in early February that would require coal mine operators to provide up to four days of breathable air for miners in emergencies. This directive follows Congressional enactment of legislation last year. The legislation didn't specifically require four days, but the Labor Department interpreted the legislative language stating a "sustained period of time" to mean four days. The directive does provide for mine operators to provide only a 48-hour supply if certain other conditions are met.

President Announces Directive on Regulations

President Bush has signed a directive that gives the White House much greater control over the rules and policy statements that the government develops to protect public health, safety, the environment, civil rights and privacy.

In an executive order, the President said that each agency must have a regulatory office run by a political appointee, to supervise the development of rules and documents providing guidance to regulated industries. The White House will thus have a gatekeeper in each agency to analyze

the costs and benefits of new rules and to make sure the agencies carry out the president's priorities.

The White House said the executive order was not meant to rein in any one agency. But business executives and consumer advocates said the administration was particularly concerned about rules and guidance issued by EPA and OSHA.

On February 13, two House subcommittees held hearings to discuss this issue.

Asbestos to Become an Issue

Expect to see increased attention to asbestos in this new Congress. Senator Patty Murray (D-WA) is the new Chairwoman of the Senate Labor Employment and Workplace Safety Subcommittee and is expected to reintroduce her legislation that would ban asbestos use and importation to the United States. She also introduced this bill in 2003 and has been a strong advocate of banning asbestos.

Asbestos is banned in 32 countries, but while strictly controlled in the United States, it is not banned.

Popcorn Flavoring Issue (Diacetyl)

While little has taken place on the federal level (OSHA has been petitioned to produce a diacetyl standard but no action has been taken) the state of California has been looking at the issue. Unfortunately for those who believe a standard is needed, the California Occupational Safety and Health Standards Board has rejected a call to enact an emergency standard.

Late last year the Board was petitioned by several CA unions to enact an emergency standard and a permanent standard. The board decided they needed additional input from all stakeholders before deciding on whether or not to issue a standard. The board instead set up an advisory committee that will gather additional information.

Nanotechnology

An issue receiving ever-increasing attention. OSHA and NIOSH recently signed an MOU to study the issue and devise ways to protect workers from possible hazards. The study will use control banding to classify and address these hazards. And on February 15 EPA issued its final Nanotechnology White Paper. This white paper is a product of a workgroup and includes public comment and peer review. You can find this by going to the EPA website, www.epa.gov/osa/nanotech.htm.

Legislative Monitoring Report as of February 28

Update on 2007 legislative activity around the country:

Federal:

There have been 698 bills introduced in the US Senate
There have been 1219 bills introduced in the US House

State:

There have been 2094 bills introduced in state legislatures that have been reviewed by AIHA. 99 of these bills have been sent on to local sections for possible interest.

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.