



Happenings From The Hill

American Industrial Hygiene Association Government Affairs Department

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Hilda Solis Confirmed as Secretary of Labor – – How Long Before We Have a Name for OSHA?

Hilda Solis was confirmed as Secretary of Labor by an 80-17 vote of the Senate earlier this week. While the confirmation was delayed for several weeks because of some questions Secretary Solis was asked to answer, there was never really any doubt she would be confirmed.

It is a little too early to say what Secretary Solis considers to be her top priorities, but if her background is any indication she will focus on farm workers, fair pay for women, health care for children, green jobs and the right for workers to have a voice in the workplace. She has been a strong supporter of the very controversial "Employee Free Choice Act" that is expected to test the strength of Labor in the new administration.

And in case you are wondering, President Obama has named Seth Harris, a professor and director of labor and employment law programs at New York Law School to be the number two at the Department of Labor. Harris has been serving as a member of the Obama transition team addressing workplace labor issues.

Now – how long do we wait until someone is nominated to fill the slot as Assistant Secretary of Labor for OSHA? Hard to tell at this point in time. If history is any indicator, we may not have an individual in place and confirmed until sometime this summer or

later. But this administration has been moving much faster than previous administrations in nominating individuals for appointment. And we thought the process at OSHA was well in motion. However, insiders are now saying the issue of who will lead OSHA has taken a turn in the last week. Without naming names, word is the individual previously thought of as the number one leading candidate is now no longer being considered. If true, that opens it back up for several names previously mentioned and perhaps individuals who have not as yet even been mentioned.

Regardless, let's hope Secretary Solis and the President move quickly. Since the November election we have seen no less than three individuals serve as the acting head of OSHA, a caretaker role with no real authority. And since the election we have yet to really see one thing come out of the agency. At this rate we will not likely see any movement on pending issues for many months.

Budgets Being Discussed – Yes, That's Right

– Budgets as in “PLURAL”

If you are having trouble “following the money” in Washington you are not alone. We seem to have a new spending proposal every week. First we had a small (only a few hundred billion) stimulus bill a couple of months ago. Then came the small (again in the billions) auto bailout. After that we had the nearly trillion dollar stimulus bill a couple of weeks ago. This week we have the omnibus appropriations bill to provide federal spending for the fiscal year that started last October 1. Again this week we have the President proposing more than \$3.5 trillion in spending in the 2010 fiscal appropriations bill. Finally, we will soon see the next bailout bill for the banks and the auto companies. Whew!

So what kind of spending can we see for occupational health and safety?

In the stimulus bill, the Department of Labor was allocated an additional \$80 million to be spent by the Secretary of Labor “as necessary”. This means the Secretary can provide additional funds to OSHA, MSHA and other DOL agencies as she sees fit. It does not provide any specific dollar amount to any one agency. While we would like to see some of this money allocated to OSHA, don't bet on it. Insiders feel most of it will be allocated to “employment issues”. As for NIOSH, the proposed stimulus bill had allocated \$40 million for NIOSH but this \$40 million was stripped from the final bill.

Next up is the Omnibus Appropriations Bill. This bill has passed the House and it is hoped the Senate can act on the bill very soon. Of course, then they will likely have to have a conference committee to work out the differences, but this must be concluded by March 6 when the continuing resolution runs out.

This bill addresses both OSHA and NIOSH. OSHA has been working with an allocation of \$486 million. President Bush had proposed a budget of \$501 million. The Omnibus Bill provides OSHA with \$513 million which was expected as Congress put the training grant dollars back in to the budget. We expect the final number to be very close to this \$513 million. As for 2010, specific figures have not yet been released, but DOL is expected to receive an increase of \$600 million from \$12.7 to \$13.3 billion. Hopefully this will include a substantial increase for OSHA.

As for NIOSH, this gets very confusing as one tries to figure out which numbers to use. Most believe NIOSH was allocated approximately \$380 million in 2008 and has been living with this allocation under the continuing resolution for 2009. President Bush proposed cutting this figure by \$100 million, \$83 million of it allocated to the World Trade Center project and a \$17 million cut in the NIOSH budget. The Omnibus Bill puts back \$70 million into the World Trade Center 9/11 project. But that still leaves NIOSH with a cut of around \$20+ million for 2009. The omnibus bill does provide \$91 million for the National Occupational Research Agenda. As for 2010, no details have been forthcoming on the dollars allocated to NIOSH.

It's Noteworthy –

If one wants to compare OSHA to EPA, occupational health and safety is really shortchanged. The EPA 2010 proposal is for a 34% increase - to \$10.5 billion. Makes one realize how this agency has grown compared to OSHA.

Final Lawsuit on Hex Chrom Comes to an End

Many weren't even aware of it, but when OSHA finalized the Hex Chrom standard back in 2006 (finalized only because of a court mandate) the agency was again taken to court challenging the permissible exposure limit that was set in the standard. The lawsuit against OSHA stated that the exposure limit was "insufficient" to protect workers.

This past week a decision was issued by the U.S. Circuit Court of Appeals that upheld OSHA's action on this permissible exposure limit. The court ruled that OSHA reached a reasonable conclusion on why they chose the recommended exposure limit and their use of the health and economic analyses was proper.

Nearly everyone should be pleased this issue has finally come to an end. Just as important is the fact that the decision should provide OSHA, in my view, with a little more "confidence and credibility" in its deliberations on issues such as this. The agency did a very thorough vetting of the science and impact the exposure limit would have and the court justified the work conducted by OSHA.

Yet while most should be thankful the process has come to an end, it once again shows the problems an agency like OSHA faces when addressing workplace hazards. Taking the agency to court on every issue that arises has become a routine and is costing valuable resources, as well as possibly delaying the implementation of workplace standards that protect workers.

Legislative Update

Federal -

Other than the numerous bills addressing economic stimulus, the omnibus appropriations bill for 2009 and the just announced 2010 fiscal year budget bill, there has been little activity in Congress on the legislative front.

AIHA continues to monitor numerous bills:

- Two bills addressing the implementation of rules adopted within the final 90 days of the Bush administration. No activity as yet. Doubtful if these measures will pass.
- One bill revising regulations concerning the recording and reporting of occupational injuries and illnesses. Not expect to pass, but there is some talk there will be an attempt to add this bill to an OSHA reform measure expected to be introduced.
- One bill to require OSHA to issue interim and final OSHA standards on combustible dust. A surprise introduction, may have hearings and puts a little more pressure on the agency to move forward with this issue.
- One bill introduced to raise the Federal Emergency Management Agency to cabinet level. Not expected to pass. This is the first time a bill addressing this issue has ever been introduced. We do expect a similar bill to be introduced that will attempt to raise EPA to cabinet level status.

State -

This is where there is considerable activity. Since January first there have been nearly 75,000 legislative measures introduced in the state legislatures. AIHA has determined nearly 2,000 were worth review and of these, AIHA found 159 of interest to the profession or occupational health and safety. These bills were located in 35 states.

AIHA monitoring:

- 33 bills addressing specific OSHA issues within the states.
- 16 bills addressing the issue of mold analysis and abatement. AIHA has an interest in many of these because of the need to identify individuals who meet minimum qualifications in order to be involved and the need to use accredited labs for sampling analysis. AIHA national has submitted comments on several of these measures.
- 15 bills addressing the issue of methamphetamine laboratory cleanup. AIHA has an interest in many of these because of the need to identify individuals who meet minimum qualifications in order to be involved and the need to use accredited labs for sampling analysis. AIHA national has submitted comments on several of these measures.
- 13 bills addressing the issue of workplace violence.
- 13 bills addressing the issue of ergonomics or safe-patient handling.
- Nine bills addressing the issue of lead abatement. AIHA has an interest in many of these because of the need to identify individuals who meet minimum qualifications in order to be involved and the need to use accredited labs for sampling analysis. AIHA national has submitted comments on several of these measures.
- Eight bills addressing the issue of professional recognition. Many of these bills identify IH profession involvement, whether it be meth labs, mold, lead, etc. AIHA has submitted comments on most of these measures.
- An additional 52 bills being monitored by AIHA addressing various occupational health and safety issues.

All of the state measures have been reported to the specific local sections impacted by the legislation. Local sections are also provided with updates on activity taking place with these bills as the bills move through the legislative process.

Miscellaneous Updates

Hex Chrom

AIHA recently submitted comments to NIOSH on their draft document “NIOSH Criteria Document Update: Occupational Exposure to Hexavalent Chromium”. To view AIHA’ comments, go to:

<http://www.aiha.org/1documents/Committees/NIOSH-Hex%20Chrom%20Comments-02-26-09.pdf>

Government Affairs Podcast

Want to keep updated on government affairs news between “Happenings”, as well as listen to it at your convenience. AIHA government affairs news can also now be found on a new short podcast. Check it out at

<http://www.aiha.org/Content/AccessInfo/AIHAcasts+-+AIHA+Podcasts.htm>

Government Affairs Blog

Not to be undone, AIHA government affairs has also started a blog. Here’s your chance to provide comments on any issue you wish and provide feedback on some of the issues. You can find this at

<http://www.aiha.org/weblog/govtaffairsblog/>

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. Simply go to the AIHA home page. Click on “government affairs”, located left side under access to information. Once in government affairs, click on “Federal Legislation Action Center”. You will need to sign in as this is a members-only section. 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.