



Happenings From The Hill

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Congress Tackles Health Care – Everything Else on Hold

While Congress is out of town this week for the Fourth of July holiday recess, it's no secret that health care has become the number one issue on the Hill, with everything else being shoved to the back. In reviewing House and Senate schedules for committees with jurisdiction over occupational health and safety, every hearing scheduled in the near future deals with health care overhaul.

That means we may not see any action on legislation such as the Protecting America's Workers Act (PWAA) for some time. In addition to the delay on that bill, expect all other legislation addressing OH&S to also be relegated to the bottom of the pile.

However, AIHA continues to push for changes to the OSH Act with support for most sections of the (PWAA), as well as additional recommendations to make the Act more effective.

Earlier this week, the AIHA board approved a new position statement on the issue of safe patient handling and has approved a letter of support for HR 2381, a bill to require OSHA to issue a standard to protect health care workers involved with patient lifting. The position statement and letter of support should be available to the membership sometime in the next week.

AIHA is also reviewing several other legislative measures addressing the prevention of employee exposure to imminent danger, recording and reporting of occupational injuries and illnesses, and the multi-employer worksite reporting of injuries and illnesses.

Obama Administration Agenda for OSHA

Ergonomics isn't the only issue this administration hopes to move within OSHA. In a recent briefing to several unions, Acting Assistant Secretary of Labor for OSHA Jordan Barab discussed additional goals of this administration.

Among these were the desire to move forward on the silica and combustible dust standards, the proposed standard for cranes and derricks, and considerable talk about increased enforcement. Barab was quoted as saying that "we're moving from voluntary protection programs into more enforcement, so that we're changing the emphasis". Barab also said that one of his goals has been to eliminate the quotas that field officers have had for signing up companies for voluntary protection programs. While stressing that OSHA was not eliminating VPP programs, he said it was "also not going after companies to build up these numbers."

In a recent talk, Secretary of Labor Hilda Solis also promised that OSHA would be very aggressive in protecting workers. She stated that even with the promise of hiring an additional 100+ inspectors in the coming year, OSHA still lacks enough personnel to do the job of protecting workers. She stated one of the reasons she appointed Jordan Barab as Acting Assistant Secretary for OSHA was because OSHA could not wait for a permanent Assistant Secretary. The agency needed to move quickly on many issues.

That raises the question of just when we might see a permanent Assistant Secretary of Labor for OSHA. While the name of David Michaels is still being talked about as the leading candidate, it's interesting that he has not been officially nominated. Yes, it takes time for the confirmation process to be conducted, but not having any name mentioned is sending a bad signal to health and safety. And one can add to this the fact that even high-level insiders at OSHA do not expect anyone to be named until later this year, perhaps even into November.

OSHA Protecting Stimulus Project Workers

OSHA continues to move forward with a program aimed at reducing workplace injuries on projects funded by "stimulus" dollars. If you recall, AIHA way back in January recommended the administration not provide stimulus funding on construction projects unless workers could be guaranteed a safe and healthy workplace.

In early May, the Secretary of Labor announced OSHA would increase inspections at federal worksites in connection with these projects. A welcome sign indeed! The administration has now taken it a step further by launching local emphasis programs to address construction projects in various states. OSHA is working with its regional offices and employers to ensure workers are protected. Nice to see a federal agency respond to a need in a timely fashion. Now if we could just convince them to require that every contract funded by stimulus dollars include an occupational safety and health professional on staff!

The Right Hand Doesn't Know What the Left Hand is Doing

We have just averted the first outbreak of H1N1 (swine flu)! Now Congress decides to hold a hearing about how prepared we are for the pandemic flu and discuss who should

be in charge. This after years and years of warnings. And what was the result of this hearing?

Well, lawmakers are urging a single federal agency to take the lead. Sounds logical. But here's the problem. At the hearing, the Department of Health and Human Services (HHS) said it should be a joint effort between OSHA and HHS. But others from the Department of Homeland Security said it should be led by the Office of Personnel Management. And the Government Accountability Office said all agencies should take more of a leadership role and approach other federal agencies.

Let's hope this gets worked out before we face a real threat.

OSHA to Evaluate VPP Program

As a result of a Government Accountability Office (GAO) report on the Voluntary Protection Program (VPP) issued in mid-June, OSHA has announced it will address the problems identified in the report. Specifically, the report recommends improved oversight and additional controls on the participants in the program.

For those companies who have been touting the success of the program, the report is somewhat of an eye opener, and not exactly a ringing endorsement. The report found that 12 percent of the participating worksites had an injury and illness rate higher than rates for their industry. The goal for the program is to have sites with injury and illness rates of 50 percent less than their industry average. All of this on top of the fact that OSHA more than doubled the number of worksites in the program from 2003 to 2008.

It should come as no surprise that Democrats in Congress and the Obama Administration intend to take a close look at this program. If you recall, there was considerable talk earlier this year that this administration was thinking about eliminating the VPP program and alliances in general. While OSHA has clarified the fact this is not their intention, don't hold your breath. There have been several quoted as saying that this evaluation will result in a clear path to how best OSHA can prioritize their limited resources. Stay tuned!

NACOSH to Meet – Finally!

OSHA has announced that NACOSH (National Advisory Committee on Occupational Safety and Health) will hold its first meeting under new leadership on July 15. NACOSH is supposed to meet several times a year but for the last several years these meetings have been essentially non-existent. The meeting on July 15 is to discuss topics including the agency's recordkeeping initiative and ethics rules, the small business report on exposure to diacetyl, and updates on OSHA and NIOSH.

NACOSH was created to advise the Secretary of Labor and the Secretary of Health and Human Services on matters relating to the administration of the OSH Act. Members serve two-year terms and are appointed to represent health, safety, labor, management and the public. In a recent announcement OSHA began seeking nominations to fill one half of the committee. AIHA submitted several names for consideration.

NIOSH – Prevention Through Design

NIOSH has announced the availability of the Prevention through Design Plan for the National Initiative. The plan focuses on eliminating hazards and minimizing risks in all designs and is now available on the NIOSH web site for your review and comment. If interested go to <http://www.cdc.gov/niosh/review/public/160/>

Written comments on the document will be accepted until August 22.

Globally Harmonized System

As reported in an earlier issue, OSHA sent a proposed rule to the White House Office of Management and Budget in late May to implement the Globally Harmonized System (GHS) of Classification and Labeling of Chemicals.

OSHA says the proposal will modify the haz com standard from performance-based to specification-oriented. While this proposal has been delayed for some time, there are still those who believe the proposal must also be reviewed by a small business panel because of the potential for costly new requirements on business. Proponents say the GHS will facilitate international trade and make it easier for small chemical manufacturers to participate in global markets.

OSHA says it intends to publish the proposal in October and will hold public hearings after publishing the proposal. But expect final implementation of this proposal to take a very long time.

Nanotechnology

There continues to be considerable interest in the research required to determine the impact of nanotechnology on health and safety. The recent 2010 proposed federal budget contains a total of \$1.64 billion for nanotechnology-related projects under the National Nanotechnology Initiative. However, that total is about 1 percent less than funding in 2009, but more than 5 percent above the 2008 level.

Even more important is the fact that the NIOSH 2010 proposed budget contains a direct appropriation for NIOSH research in the amount of \$5 million. This is the first time money has specifically been targeted for nanotechnology research within NIOSH. Previously the Institute would use “discretionary” funding for the research. Combining this \$5 million appropriation with a \$7 million carryover in discretionary spending from 2009, the Institute will now have \$12 million for nano research.

Ergonomics

With a new administration in town, organized labor has again raised the issue of an ergonomics standard. But enacting a standard is easier said than done. While OSHA has announced the agency will continue to push for an ergonomics standard and a more targeted enforcement approach, the agency is much more likely to continue using the general duty clause to cite ergonomics violations. Frankly, this issue has the potential of causing considerable problems. If the agency decides to move forward with an

ergonomics proposal, industry will likely put together a “war chest” to once again stop the move. And that will do nothing but cause harm to any possibility of industry and organized labor working together on other issues in this administration.

Indoor Air Quality Standard on the Horizon?

After more than a decade since the last attempt at enacting an indoor air quality standard, is OSHA considering another attempt? Not necessarily, but the agency is signaling that it may be willing to consider guidelines. This news came after the agency held meetings with the American Federation of Teachers and listened to their wish for the agency to enact a standard. It's unlikely the agency will pursue a standard anytime soon as this issue is not exactly at the top of the list for the agency. But don't be surprised if the agency does accept input in putting together guidelines.

The Way I See It!

There has been considerable discussion the last couple of months about whether or not OSHA has plans to eliminate the Voluntary Protection Program (VPP) and use these resources to enhance enforcement. First, we heard the administration was on board to “reallocate” these voluntary compliance resources. Then we heard the administration had no plans to eliminate the program. That made sense because many felt the agency would have great difficulty eliminating a program many considered a success.

Now it seems the agency has some concrete data that would allow them to again “revisit” the idea of eliminating the program. A recent Government Accountability Office (GAO) study found the agency lacks internal controls over the program and has been more interested in increasing the number of participants than ensuring these participants meet the minimum qualifications in order to participate. Seems the GAO report actually found participants receiving numerous violations, including serious violations, even including a fatality. The report wasn't exactly a ringing endorsement for the program.

However, let's hope the agency doesn't use this report to simply dismantle a program where most of the participants have met the qualifications and have improved the health and safety of workers. And let's hope the participants in the program don't consider acceptance as a VPP site as a license to simply look the other way after they have been accepted.

I agree with Warren Brown, ASSE President, who suggested the agency invite OH&S professionals and other stakeholders to sit with the agency and discuss ways to make the program more effective. Another alternative was suggested by a stakeholder who said perhaps the best way to address this problem is “freeze” the program at the present level until such time that new controls and oversight can be put in place.

If this administration and the agency determine the GAO report is a license to eliminate the program I think they are making a big mistake.

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.