



Happenings From The Hill

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Obama Transition Moving Along at Breakneck Speed

As we near the one month anniversary of the Presidential election, President-elect Barack Obama is moving very quickly to fill cabinet positions and other positions addressing the economy and national security. We expect all of the cabinet choices to be made prior to the holidays; perhaps even learn of a few lower-level appointments.

However, while the economic and national security positions are of the utmost importance to the nation at this critical time, we still haven't narrowed down the potential names for Secretary of Labor. Four names keep making the rounds. Former Representatives Dick Gephardt and David Bonior, Michigan Governor Jennifer Granholm and Los Angeles Mayor Antonio Villaraigosa.

As to who might be nominated to head up the Occupational Safety and Health Administration, there are numerous names being discussed. AIHA has heard that Michael Silverstein and David Michaels, two early names being tossed about, have indicated to some that they are not interested in the position. We still hear the names of Peg Seminario of the AFL-CIO and Dr. John Howard, former head of NIOSH as being interested and their names are in play. Recently we have also heard that Hamid Arabzedehe from California is also being discussed within certain circles. But who knows!

AIHA has been in touch with the OSHA transition team on several occasions. We submitted some of the minimum qualifications we feel are necessary for the next head of

OSHA as well as a list of our priority issues. The transition team has called AIHA to gather additional information.

111th Congress Nearly Set

With the run-off victory of Senator Saxby Chambliss in Georgia yesterday, the Democrats hope for a filibuster-proof Senate was dealt a blow. With only one Senate race still without a victor (Minnesota), the Democrats can hope to hold no more than 59 seats. They currently hold 56 seats and there are two Independents who vote with the Democratic caucus. The number “60” is a magic number in the Senate. Without this number, the minority party can effectively stop many of the majority proposals.

OH&S Agenda

We are beginning to learn a little more about what occupational health and safety issues may take center stage in the 111th Congress. A previous Happenings suggested that the “Employee Free Choice Act” would be at the top of the agenda for labor and that seems to remain the case. But OSHA reform is also near the top of the agenda.

We expect to see a re-introduction of the “Protecting America’s Workers Act” very early in the next session of Congress. And expect numerous individual bills addressing expansion of OSHA coverage, criminal penalties, reporting of injuries and illnesses, and stronger whistleblower protections. But don’t expect bills on combustible dust and diacetyl. We expect Congress to hold off on these issues and allow OSHA to address them on its own.

We are also hearing a little bit more about what a President Obama thinks of occupational health and safety. He has indicated that he would increase OSHA’s funding and provide more health and safety training for small business. He wants to put the controversial ergonomics standard back in place. He will undoubtedly shift emphasis more toward enforcement and away from voluntary partnerships. All in all, industry is preparing for a much stronger regulatory environment; however it is obvious that President-elect Obama will not see OH&S as a priority in the early part of his Presidency.

Deja Vu at OSHA?

Have heard these stories before, but here is the latest –

Hex Chromium

If you recall, OSHA finalized the Hex Chrom rule in 2006 after a court ruling forced the agency to complete the rulemaking. Well, here we are in late 2008 and OSHA is still going to court over this rule. Public Citizen (the group that forced the original court ruling requiring OSHA to finalize the rule) is still in court challenging the final rule. In late November a federal appeals court heard oral arguments on the lawsuit. Public Citizen says the PEL that was eventually set by OSHA is too high and they want a lower PEL for some industries. And you thought this debate was over!

Globally Harmonized System

OSHA says they are in the final stages of drafting a notice of proposed rulemaking to adopt the GHS (Globally Harmonized System of Classification and Labeling of Chemicals). Going back in time, OSHA published an advance notice of proposed rulemaking in September 2006. Earlier this year several individuals were quoted as saying that the proposed rule would be out by October 1. Now OSHA says the proposal is nearing the stage where it can be sent to the Office of Management and Budget for review. But don't get excited – inside sources say the final rule on implementing the GHS is at least a year away.

Cranes and Derricks

The notice of proposed rulemaking on cranes and derricks in construction was published on October 9. Word now comes from OSHA that the deadline for the submission of comments on this proposal has been extended to January 22. AIHA is preparing comments for submission.

DOL Risk Assessment Rule

Finally, we are still monitoring the so-called “secret” rule that DOL proposed regarding the risk assessment process for toxic chemicals. The semi-annual regulatory agenda from OSHA lists a final action date of November 2008, but obviously that did not occur. The agency says the date was nothing more than a formality. Stakeholders are closely watching this rulemaking as the Bush Administration winds down. President-elect Obama has stated he is opposed to this rule and will work to overturn it if the Bush Administration finalizes the rule prior to January 20. Of course, overturning a rule is much easier said than done so we just have to wait this one out.

OSHA Publishes Semi-Annual Regulatory Agenda

The most recent semi-annual regulatory agenda from OSHA was published in the Federal Register on November 24. A year or so ago federal agencies amended the way they publish the agenda, with only those issues deemed of serious interest to be published in the Federal Register. Other issues (a wish list) are published elsewhere.

The OSHA agenda is very short – expected as a new administration prepares to take over in January.

Prerule Stage –

- Occupational Exposure to Silica
- Occupational Exposure to Beryllium
- Methylene Chloride
- Occupational Exposure to Diacetyl
- Bloodborne Pathogens

Proposed Rule Stage –

- Confined Space in Construction
- Electric Power Transmission
- Cranes and Derricks

Federal and State Legislative Action Centers

The federal and state legislative action centers are being “cleaned up” in preparation for the new legislative sessions in January. When this is completed and the sessions begin, 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.