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Connection

August 22, 2005

Honorable Jonathan Snare
Assistant Secretary of Labor
Occupational Safety and Health Administration
US Department of Labor
200 Constitution Avenue NW
Washington, DC 20210

Dear Assistant Secretary Snare:

On behalf of the American Industrial Hygiene Association (AIHA) I am writing to request that the Occupational Safety and Health Administration (OSHA) reconsider the most recent notice in the semi-annual regulatory agenda that places hearing conservation programs for construction workers in the long-term category.

For over 21 years construction workers have not been afforded the same legal protections from hearing loss as have their industrial counterparts. Over 700,000 workers are at risk and many lose significant hearing after only 10-15 years on the job.

In May 2000, AIHA contacted then Assistant Secretary of Labor for OSHA Charles Jeffress to comment on OSHA's intention to issue an Advanced Notice of Proposed Rulemaking (ANPR) on hearing conservation for construction workers that summer. AIHA offered assistance and support for the prompt issuing of this Notice and offered suggestions as to what areas within the Notice where questions needed to be asked.

Unfortunately, OSHA failed to issue the ANPR in 2000 or even 2001. Finally, in August 2002 OSHA published an ANPR and announced stakeholder meetings to gather information on the proposal. As a continuation of this process, in July 2004 AIHA adopted and forwarded to OSHA official comments on a hearing conservation program for construction workers.

AIHA is aware that in the most recent semi-annual regulatory agenda, this action has been relegated to "Long-Term Actions", essentially removing the issue from consideration at this time, with no timetable set for any additional consideration.

AIHA

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AIHA continues to believe that hearing loss in construction is a serious issue that has not been given the attention it deserves. We respectfully request OSHA to begin efforts to move expeditiously forward on a hearing conservation standard for construction. As a first step in this process, we are hopeful that OSHA will remove the issue from the long-term category on the regulatory agenda and perhaps move towards publishing a proposed rule sometime in 2006.

A quick review of the AIHA position with respect to hearing conservation programs for construction workers:

- Construction environments are typically noisy due to a wide range of tasks and activities inherent to the industry. Many workers on construction sites are exposed to noise at levels likely to result in hearing loss, and hearing loss is common among long-term construction workers. OSHA should update and improve the regulation addressing hearing conservation on construction sites using consensus standards and demonstrated good practices.
- On-going efforts to produce equipment and strategies to reduce noise exposure related to construction activity should be supported and continue. We encourage OSHA to foster and encourage alliances among construction employers, trade groups, construction equipment manufacturers, and other parties to develop quieter equipment, tools, and processes.
- Noise exposure evaluation is essential. Hearing loss prevention efforts and regulations must be based on exposure and risk of hearing loss. Task-based and full-shift exposure assessment techniques both have merit and should be addressed in the standard. Exposure evaluation needs to be targeted at workers with potential for exposure above 85 dBA.
- Worker education is vital to prevent hearing loss. Training on noise hazards, appropriate self-protective behavior, proper use of hearing protection devices (HPD) and related hearing loss prevention issues should be provided to all construction workers.
- Good industrial hygiene practice dictates that we follow the traditional hierarchy of controls. Employers should manage noise hazards by exhausting efforts to substitute for and/or eliminate noise hazards; developing and employing engineering controls; providing warnings as to risk; and providing training and procedural/administrative controls before requiring the use of HPDs, which should be treated as the last line of defense.
- We encourage OSHA to look at worker exposure assessment/compliance methods similar to the Lead in Construction Standard and the draft Silica standard. In both of these cases, specific job tasks are listed along with specific protection that must be provided to the worker at the start of the job unless there are historical empirical data to show otherwise.

The employer then has the option to use traditional IH exposure assessments to provide data demonstrating that a lower level of protection is adequate.

- Although engineering and administrative noise controls are the preferred strategy for exposure reduction, use of HPDs to prevent hearing loss on construction sites is often unavoidable. An effective HPD program must exhibit these characteristics.
 - HPDs must be readily available on the jobsite.
 - HPDs must be appropriate for the designated use. Because HPD use can be a barrier to essential auditory communication, HPDs must be selected based on exposure, task, and need.
 - Users must be trained on effective HPD use. All employees expected to use hearing protection devices should receive training on correct use and care.
 - The HPD selected for use must be well accepted by users and be comfortable.
- Determination of hearing ability has a role in hearing loss prevention efforts. Regular audiometric testing can be used to monitor long-term program effectiveness by assessing the effect of workplace noise on workers' hearing. Audiometric testing can also be an educational tool, providing the workers feedback as to the effectiveness of their current hearing loss prevention actions, both on and off the job. Qualified persons following good practice must perform audiometric testing.

In many cases, the construction environment places obstacles in the way of effectively and efficiently utilizing audiometric testing (e.g. jobsite location and accessibility; high worker mobility - between employers and geographically). If OSHA decides on audiometric testing as part of the HCP standard, OSHA should also consider compliance alternatives for contractors when audiometric testing may have limited value. Washington State's Department of Labor and Industries regulation WAC-296-817-500 Options to Audiometric Testing is an example of an alternative that could be applicable to the construction industry.

- A means of evaluation is necessary to ensure that programs are meeting their desired goals. We encourage OSHA to consider including program evaluation elements in the standard.

The Noise and Construction Committees of the AIHA continue to work together and establish the critical elements of effective hearing loss prevention in construction workers. These committees and the AIHA will be pleased to work with OSHA and other stakeholders on this important issue.

Thank you for consideration of this request and your continuing efforts to address this important issue. Please contact me should you have any questions.

Respectfully,

(signature)

Roy M Buchan

Roy M. Buchan, Dr.PH., CIH
President

cc: Co-Chairs of US Congressional Hearing Health Caucus
AIHA Board of Directors
Chairs, AIHA Noise and Construction Committees
Steven Davis, AIHA Executive Director