



Happenings From The Hill

American Industrial Hygiene Association Government Affairs Department

Aaron K. Trippler, Director
703-846-0730 atrippler@AIHA.org

July 21, 2009

Congress Preparing for Summer Recess

A short *Happenings* for you - Expect increased activity in Washington the next couple of weeks as Congress works to finalize the new Supreme Court nominee and decides whether or not health care reform is in our future. The summer recess period is fast approaching; but when exactly the lawmakers will leave town is still up in the year. What is known is that once they leave they won't be back until after Labor Day.

Even though we will see increased activity in the next couple of weeks, I'm afraid occupational health and safety issues aren't among those being discussed. Once again, we will just have to wait and see what Congress decides to do with these issues when it returns.

CONGRESSIONAL NEWS

House Appropriations Report on OSHA and NIOSH

While approval of the 2010 federal budget is still some time from being adopted, work has begun on "looking a little closer at the details". Earlier this month, the House Appropriations Committee issued its report on the OSHA and NIOSH proposed budgets. There are some changes being recommended to the proposed budgets.

OSHA –

The President proposed a 2010 budget for OSHA at \$563.6 million. The House report actually reduced this figure to \$555 million. However, this still represents an increase of \$41 million from fiscal year 09 and provides for nearly 150 new enforcement staff. The \$9 million decrease was taken from enforcement (\$6) and state programs (\$3).

The report also called for OSHA to consider an airborne transmissible disease standard and improve recordkeeping efforts on ergonomics. This recordkeeping request focuses on perhaps considering the recording of ergo injuries in a separate column on recordkeeping forms.

One interesting tidbit from this report. The report recommends compliance assistance programs, including the VPP, remain at the same level as requested.

NIOSH –

Somehow, somehow, stakeholders have succeeded (albeit in a small way) of convincing Congress of the importance of NIOSH. The President had proposed increasing the NIOSH budget by about \$8 million in 2010 compared to 2009 – to \$368 million. The House report actually increased this amount by about \$1 million which now gives NIOSH \$369 million in spending authority.

The report suggested NIOSH focus on nanotechnology and pandemic flu research.

Safe-Patient Handling Legislation Receiving Attention

HR 2381 – the Nurse and Health Care Worker Protection Act (known as the safe-patient handling bill) is receiving considerable attention by stakeholders. This bill would require OSHA to adopt a safe-patient handling standard to protect health care workers from ergonomic injuries. The bill has received no action in the House, but the sponsor (Rep. John Conyers) continues to seek co-sponsors and has talked of perhaps trying to add this bill to the major OSHA reform bill that was introduced earlier.

I doubt if this will happen, but look for the issue to be discussed in future House hearings and for OSHA to take a serious look at the issue.

AIHA is in support of the bill and also made a couple of suggestions. AIHA has also adopted a new position on safe-patient handling. The letter of support can be found at <http://www.aiha.org/1documents/GovernmentAffairs/HR2381PositionConyers070709.pdf> and the position statement can be found at <http://www.aiha.org/1documents/GovernmentAffairs/safepatienthandling.pdf>

AGENCY NEWS

OSHA –

Secretary Solis and Acting Assistant Secretary Barab Outline Future Plans

By now everyone has heard that Labor Secretary Hilda Solis and Acting Assistant Secretary of Labor for OSHA Jordan Barab have been speaking out about the future goals of OSHA. It should come as no surprise that enforcement leads the list. Their

goal is to hire 150 new inspectors, increase the number of annual inspections from 38,000 to 44,000, increase penalties, scrutinize incentive programs, review the VPP program, and be more aggressive with standards and recordkeeping.

This is a pretty big agenda, even for an agency that has the support of Congress and the Administration. While I see many of these issues very “doable”, I think they are being a little optimistic when discussing the standard-setting process.

According to reports, they hope to promulgate standards for diacetyl flavoring, combustible dust, cranes and derricks, confined space in construction, and rewriting the haz com standard. You can add to this the continuing discussion of ergonomics. A very broad agenda, one most hope shows some success, but also one that will receive considerable debate.

NACOSH –

The first meeting of the National Advisory Committee on Occupational Safety and Health in more than a year was held recently. Great to see this Committee back in action. While the majority of this meeting was to listen to reports from OSHA and NIOSH, there seemed to be considerable interest in several issues.

Among the updates from OSHA –

Combustible Dust – an ANPR is forthcoming, followed by stakeholder meetings.

Silica – peer review in progress.

Diacetyl – the small business review is complete.

Beryllium will be back on the agenda.

Cranes and Derricks – perhaps not until next year.

Penalties – serious penalties are now under \$1,000 – these will be increased. (Speaking of penalties, word is that OSHA has stopped negotiating lower penalties for violators.)

Ergonomics – OSHA hasn’t yet decided what to do with this issue, but it has to be addressed. They admit it is not only a worker problem but a political problem.

H1N1 – There needs to be more focus to protect all workers.

Regulatory Process – painfully slow and they need to work with all of government and stakeholders.

Worker incentive programs – do they work or do they discourage reporting?

And recordkeeping. OSHA has questioned whether the counts are accurate and beginning next month will start a National Emphasis Program on recordkeeping. OSHA believes there is 10% to 20% underreporting (private polls say it may be up to 60%). In brief, OSHA says it will be looking at low-rate reporting in high-rate industries.

The Way I See It!

Having attended the first meeting of NACOSH in over a year, I found this to be a very interesting discussion and review of the activity taking place at OSHA and NIOSH. But as I sat and thought about things, I began to become more and more frustrated. Not with the reports – but with the titles of those providing the reports.

Jordan Barab, Acting Assistant Secretary of Labor for OSHA provided a very complete look at the agency and its short and long-term goals. The rub comes with his title – Acting Assistant Secretary! Just when is this administration going to show a little more concern about occupational health and safety and find a permanent Assistant Secretary? Senate confirmation of such an individual isn't yet a concern – we don't even have a nominee! According to Jordan, he doesn't think we will see a permanent Assistant Secretary until perhaps October.

Then we moved to the report from NIOSH, provided by Acting Director Dr. Christine Branch. Dr. Branch assumed the role of Acting Director upon the completion of Dr. John Howards' six-year term at NIOSH – last July. Here, we can give the administration a little more slack since it took some time to confirm a HHS Secretary and put a new director in place at CDC. But we shouldn't have to wait this long to have a permanent director in place overseeing research in occupational health and safety.

Dr. Branch did inform me that as of last week CDC was in the process of seeking applications for the permanent director slot. Let's hope this doesn't take too long.

These two unfilled slots are beginning to leave me with the thought that this administration has decided occupational health and safety is not exactly high on the agenda. Of course we have other concerns in this country. But it's time for the supporters of this administration, the stakeholders in occupational health and safety, and even those who do not support this administration to stand up and demand the filling of these slots. There is no reason we should have to wait any longer!

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.