



Happenings On The Hill

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Congress Settles In To Do Some Work

Congress returned to Washington following a two-week recess for the Easter holiday and now seems to be settling in for some serious work. Anyway let's hope so. If the beginning of this week is any indication we may finally see some action on several fronts. Issues to tackle – the Medicare doctor reimbursement fix, the nuclear deal with Iran, a closer look at the FY16 federal budget, and perhaps a look at some issues that might impact occupational safety and health. Of course, we should not only take a look at what is on the table at this time, but take a look at issues that just might be on the horizon.

TSCA Reform. Those who thought the effort to reform the Toxic Substances Control Act was all done after the death of Sen. Frank Lautenberg were mistaken. Not only has the late Senator's bill been reintroduced but this time around it looks as if there may be multiple bills up for consideration. Two bills in the Senate (S697 and S725) have been introduced and hearings held on one. In addition, a draft bill is being prepared in the House and hearings were held on this draft bill earlier this week. Amending TSCA is very complex and difficult; however, there are some who believe some sort of TSCA reform just may stand a chance this time around. Odds – perhaps 50-50.

Regulatory Reform. This seems to be one of the top issues with this Congress. We already have more than a dozen bills introduced to amend the regulatory process of the federal government. While everyone agrees the regulatory process could use some amending, some of the ideas are "way out there". There are bills that would require

Congress to approve any major rules before they could go in effect. Bills to create a commission to recommend the elimination or realignment of duplicative, wasteful or outdated rules. That one makes some sense. A bill to require each agency to provide a link to a 100 word plain language summary of the proposed rule. Another pretty good idea. Even a bill that would sunset rules after 10 years unless agencies undergo notice and comment rulemaking. Odds on any of these – one or two may have a 50-50 chance of passage; however most will never make it out of Committee. And stay tuned as there will likely be dozens more introduced.

Child Labor Law for Logging. This may sound like an issue that has no impact on occupational safety and health but that couldn't be any further from the truth. This is the second session where this bill has been introduced (identical bills in the House and the Senate). The bills would essentially allow family members between the ages of 16 and 17 to operate logging machinery. AIHA opposed this legislation last time and is opposing the legislation again this time. Doesn't make a heck of a lot of sense to me. Teenagers operating machinery in the agriculture sector have some of the highest rates of injury out there. So why would we turn around and allow these same teenagers to operate machinery that is just as dangerous? Add to the fact that working with logging machinery is likely to involve working around more individuals than working with agriculture machinery. Anyway, AIHA is submitting letters of opposition on this legislation sometime in the next few days. Odds – Need to watch this once closely and educate Congress about its true implications. If we don't this just may be enacted.

Injury and Illness Reporting. Once again, a bill has been introduced that would require site-controlling employers to keep a site log for all recordable injuries and illnesses occurring among all employees on the site, whether such employees are employed directly by the site-controlling employer or sub-contractors or temporary help. Odds – An interesting bill that has been around before and was included in the major OSHA reform bill. I don't see this being enacted.

Occupational Safety and Health Appropriations. Nothing new to report on this issue. The President has proposed his appropriations requests and the Republicans have proposed a broad look that will not be anywhere near the President's request. Odds – Don't look for either side to get what they want. What we really hope for is some sort of compromise on spending that will be enacted before September 30. AIHA joined with ASSE and the National Safety Council in sending letters to Congress supporting the President's proposal for OSHA funding and opposing his proposal for cutting funds from NIOSH.

Safe patient Handling. No legislation has yet been introduced but will be shortly. This bill would require OSHA to enact a safe patient handling standard. Odds – Really don't see this being enacted in this session of Congress.

OSHA Reform. The same bill that has been around for several years is likely to be re-introduced. This is the bill that would expand OSHA coverage to public employees not currently covered, increase victim's rights, increase criminal penalties, etc. Odds – It will be introduced but doesn't really stand any chance of passage.

Regulatory Activity

Seems there are a lot of issues being discussed; whether or not anything happens with them is another matter.

Confined Spaces in Construction Rule

A draft final rule is now back at OSHA after the White House signed off on the proposal. The White House sent it back to OSHA with some recommendations but no one is willing to say what these recommendations are. Essentially this rule would expand the confined spaces standard to cover construction. Now, what can we expect? OSHA says it will soon publish the final rule. Hope so. The agency agreed way back in 1993 to pursue a confined spaces rule covering construction. I would say this has taken a while. Actually, my prediction is pretty close to coming true. When President Obama took office I predicted this might very well be the first rule to come out of the new administration. Well, after six years it may be finalized and will still be one of the first rules to come out of this administration.

Silica Rule

Another issue OSHA and the White House say will be finalized before the end of this administration's term. I would tend to agree this is probably the number one issue of the agency at this point in time. Everything seemed to be in place for publishing a final rule and then we hear that someone may throw a monkey wrench into the plan. Seems the construction sector is urging OSHA to consider some new data that shows OSHA underestimated the cost of the final rule by 20 percent. Now the question – will OSHA reopen the rule to review this data? If so, that may delay the time to finalize the rule until this administration is no longer in office. If OSHA does not reopen the rule, the construction industry may have a challenge they can take to court to halt the final rule. Will be interesting to watch.

Beryllium. Still waiting for the White House to return the beryllium proposal to OSHA with some sort of recommendation on how to move forward. This is one of the other issues the administration has hinted it may be able to complete in the next 18 months. Not sure if that is possible but you would think it wouldn't be so difficult since the proposed recommended exposure limit was a result of an agreement between labor and the beryllium industry.

Infectious Diseases Rule. The small business review has been completed and the review resulted in a request to OSHA to go back to the drawing board and start over. While this happens quite often with these reviews, in this case it may have a real detrimental effect on the agency moving forward. Don't think this one will make it.

Regulatory News Bits –

- OSHA has rescinded their recent policy to require employers in the SHARP program to leave the program if they have 250 or more employees at a worksite or 500 or more workers overall. The SHARP program is aimed at small and medium-size workplaces. Not only did some lawmakers oppose the OSHA policy but some state officials also opposed the effort by OSHA.
- With the new federal reporting rule on worker injury and fatality incidents that took effect January 1, OSHA is now reporting that regulators are inspecting about

40 percent of the incidents reported. OSHA says the new rule has put the agency in contact with employers it hadn't contacted previously.

- OSHA has released guidance calling for written prevention programs to address the issue of workplace violence in the health-care industry. The voluntary guidelines update a previous version from 2004. There are several federal lawmakers who believe guidelines are ineffective and that the agency needs to develop an OSHA standard.
- Public Citizen and the Public Health Law Research program have released a database of state occupational safety and health regulations and laws in the state plan states. I don't have the information on how to access this information but would suggest contacting either Public Citizen or the Public Health Law Research program of the Robert Wood Johnson Foundation.
- NIOSH has put out information on the NIOSH hearing loss prevention program to assist employers in keeping workplace noise at acceptable levels. The issue of noise and hearing concerns is becoming a larger issue each year. The most recent AIHA member public policy survey found the issue of noise and hearing problems in the top three individual hazards of concern.
- How problematic is the federal budget problem? The Occupational Safety and Health Review Commission stated it may have to furlough staff because of a budget shortfall. I found it rather interesting though that the Commission stated that if the Commission did not fill its required third commissioner slot it may save enough to avoid furloughs. But isn't the Commission required to have three commissioners? A very unique way of explaining how to save money.
- Those waiting to see the comments submitted on the OSHA Request For Information (RFI) on addressing new options to control chemical hazards in the workplace (and updating the PELs) may have to wait a bit longer. The RFI comments were due to be submitted by April 8; however OSHA granted AIHA's request for a six-month extension to allow additional time for AIHA and others to address the many very technical questions in the RFI.

OOPS!

Sorry it has been a while since the last Happenings. A combination of factors kept me from putting one out in March. Appreciate all the emails asking whether or not they had missed the issue. And no, the reason for skipping the issue wasn't because the government shut down as some thought and others hoped. No, I was just a little slow is all.

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 on the "stay connected" tab at the top of the page. Once in government affairs, click on "Federal Legislation Action Center". 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.