



Happenings On The Hill

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December 13, 2013

Will Washington Provide “Holiday Gift” to American People?

Finally some compromise! Seems that a week or two back home facing irate constituents, a nine percent approval rating and an election only 11 months away can make all the difference in the world when it comes to getting something done on Capitol Hill.

The House of Representatives on December 12 passed a federal budget that will avoid the chance of a future government shutdown until at least October 2015. The House then adjourned for the year completing the first session of the 113th Congress.

But don't get too excited. The Senate must still pass the budget proposal and will take up the bill next week. If the Senate passes the bill (which I believe they will), the President has indicated he will sign it.

What Does the Bill Do?

I'm not an expert on the federal budget so let's just take a broad look at the issue to give you some idea of what is taking place.

We are currently living with a Continuing Resolution that will expire on January 15. The sequestration of government spending that took effect last year limits current federal government spending at \$967 billion for the year. As an example, OSHA lost approximately \$25-\$30 million from its budget after sequestration took effect. The

Republicans wanted to keep the FY14 budget (to run through September 30, 2014) at this level. The Democrats wanted to increase the spending level to \$1.058 trillion.

Both sides decided to compromise and the House approved a FY14 spending level at \$1.012 trillion. The House went even further and approved FY15 spending at \$1.014 trillion. But the dollar figure that is important in all of this is the figure of \$85 billion.

The House bill increases discretionary spending by about \$63 billion above the sequestration levels, with \$45 billion of the increase applied to FY14 and the rest to FY15.

The bill also provides for future deficit reductions in the amount of \$22 billion.

Where Does the New Money Go?

That's a good question. We know that when the sequestration took effect that defense spending absorbed nearly half of the cuts. Expect defense spending to absorb about half of the newly found money. But that still leaves an awful lot of money to play with.

The best answer is that no one knows who will receive the money and how much they might receive. That's because this entire bill was all about setting a total limit and not looking at individual cabinet-level departments and agencies. The next step is that when Congress returns in January they must begin to appropriate dollars to every agency. For OSHA, NIOSH and others it means that Congress may give them more money to spend or they may decide to take money away and spend it somewhere else. In other words there are no details on this and we don't expect any for the next month or two.

This is Good News – Anything Bad in the Deal?

Well, if you must know the bill does not address the debt ceiling. That limit will be reached February 7 and if not raised the government will not be able to pay its bills. Plus, we still have to make sure the Senate passes this budget bill; however I'm pretty confident that will happen.

So Happy Holidays from the first session of the 113th Congress – at least on the House side. Feels pretty good to report some good news for a change! Besides, it's the Holidays!

OSHA “Jump Starts” Regulatory Machine

Not quite sure who lit the fire at OSHA but the level of activity at the agency in the last two months is more activity than we have seen in the last several years combined. Now the question is likely to be whether or not any of this activity will result in completed actions. Here's a look at the current activity:

Silica

The OSHA proposed silica rule is receiving a considerable amount of discussion. The proposed rule that would lower the silica exposure level was proposed on September 12. Following the announcement, OSHA received numerous requests to extend the comment period for 90 days. OSHA agreed to extend the deadlines for 47 days. The new deadlines:

Deadline for Notice of Intent to Appear at Hearings December 12, 2013

(AIHA has submitted our request to appear) January 27, 2014
Comments Due at OSHA
(AIHA will be submitting comments)
Hearings Begin March 18, 2014

Outlook: Don't be surprised if there is a major push to finalize a silica rule in 2014. Word is that this is one issue that Dr. Michaels would really like to finalize as soon as possible. However, there will be plenty of opposition to the proposed rule so be prepared for fireworks.

Recordkeeping

OSHA is also moving forward on a proposed rule on recordkeeping. The proposal was announced on November 7 and involves a move to "electronic submission" of injury and illness rates. Employers with more than 250 employees would be required to submit reports quarterly and employers with more than 20 employees would be required to submit reports on an annual basis.

OSHA makes it clear that the agency is not requiring employers to keep track of any new data than is currently required. OSHA also says one purpose of the rule is to make it easier for employers to compare their injury and illness data to other employers as all data would be available on the OSHA web site.

The deadlines:

Deadline for Notice of Intent to Appear at Meetings January 3, 2014
(AIHA will likely submit request to appear)
Meetings Begin January 9, 2014
Comments Due at OSHA February 6, 2014
(AIHA will be likely submit comments)

Outlook: There is much more opposition to this proposed rule than one would think. Some in industry are afraid the information will be used against them if it is made public. While OSHA hopes to move forward rather quickly, don't be surprised if this rulemaking drags on for some time.

Chemical Safety

OSHA announced a request for information (RFI) seeking public comments on potential revisions to its Process Safety Management standard and related standards on December 3. The purpose of this RFI is to seek ways to improve chemical facility safety and security following the April explosion in West, Texas that killed 15. The agency asks for information and data on specific rulemaking and policy options and the workplace hazards they address. OSHA will then determine what actions, if any, it may take.

Comments on the RFI are due at OSHA March 10, 2014.

Protecting Temporary Workers

OSHA launched an initiative on protecting temporary workers on April 29. OSHA has now drafted a document (November) for Best Practices for Protecting Temporary Workers. AIHA was given an opportunity to review the document and provide input. AIHA supported the document and provided a few recommendations. You can find the AIHA comments on the AIHA web site under government affairs

<https://www.aiha.org/government-affairs/PublicPolicy/Temporary%20Workers-Comments-12-09-13.pdf>

No word on when OSHA might release a final document on this issue.

NIOSH Carcinogen Policy

OSHA isn't the only agency with activity. NIOSH recently announced the availability of a draft document for public comment "Updating NIOSH Carcinogen Classification and Target Risk Level Policy for Chemical Hazards in the Workplace". NIOSH has several questions it wants addressed by those commenting, including whether or not the proposed carcinogen policies are consistent with the current scientific knowledge of toxicology.

Public Meeting to be held:
Comment Deadline to NIOSH:

December 16, 2013
February 13, 2014

OSHA Announces Semi-Annual Regulatory Agenda

In late November OSHA announced its latest semi-annual regulatory agenda. The agenda is a "blueprint" for issues the agency believes it would like to move forward with in the coming six month period. Most would view the regulatory agenda as somewhat of a "wish list" as it is very difficult, if not nearly impossible, for the agency to meet these deadlines.

While the Fall 2013 agenda doesn't necessarily provide anything new, it is interesting nevertheless to take a look at those issues important to occupational safety and health and see when OSHA believes action might take place.

Prerule Stage

Review of Bloodborne Pathogen Standard
Review and Issue Findings – 05/2014

Infectious Diseases Standard
Initiate the Small Business Regulatory Review – 01/2014

Standards Improvement Project IV – Remove, revise duplicative, unnecessary, and inconsistent safety and health standards
Already missed the 11/2013 deadline

Review/Lookback of OSHA Chemical Standards (PELs)
Request for Information – Already missed deadline of 12/2013

Process Safety Management and Prevention of Major Chemical Accidents
Request for Information Issued – 11/2013

Proposed Rule Stage

Occupational Exposure to Crystalline Silica
Rule Proposed – Deadline for Comments – 01/2014

Occupational Exposure to Beryllium
Notice of Proposed Rulemaking – 04/2014

Combustible Dust
Initiate Small Business Regulatory Review – 04/2014

Injury and Illness Program
Notice of Proposed Rulemaking – 09/2014

Improve Tracking of Workplace Injuries and Illnesses
Comment period ends – 02/2014

Final Rule Stage

Confined Spaces in Construction
Final Rule – 02/2014

Interesting Tidbits

- **Whistleblowers.** Whistleblowers can now file complaints online, providing an additional way to reach OSHA for assistance. Currently workers can make complaints to OSHA by filing a written complaint or by calling the agency.
- **GHS (Globally Harmonized System).** Companies faced a December 1 deadline to train their workers on the new hazard communication system. Word is that most employers are finding the training relatively simple and not expensive. OSHA said the agency would not directly target employers on the training deadline and would try to work with employers to make sure they have their employees trained.
- **PELs and the Annotated Tables.** While OSHA has received high marks from many for placing the PELs, RELs, TLVs and other exposure limits on one table for comparison, there are others who believe this is simply a “back-door” approach for the agency to cite those who are not using safer exposure limits than the current PELs. OSHA has gone out of its way to say that the agency will not be using the general duty clause or other means to cite employers who do not use the safer limits; however some employers say only time will tell. Employer groups cite one case already where an employer has been cited.
- **Federal Contracts and Safety.** The issue of whether or not federal contractors should be required to meet stricter safety and health requirements is in the news again. A Senate Committee report released by Senator Tom Harkin found that the government continued to contract with companies who were facing serious fines for safety and health violations. While the report suggested the President issue an Executive Order to tighten up the federal contract issue, others have said the issue needs Congressional action.

And with that –

Have a Happy, Healthy and Safe Holiday Season!

For information on any of the items in this report, please contact Aaron Trippler.