



SafetyNet

ESSENTIAL INFORMATION FOR THE SAFETY PROFESSIONAL

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Solis Promises Tougher Enforcement

The Occupational Safety and Health Administration is initiating an advance notice of proposed rulemaking on combustible dust and will make enforcement its top priority, Secretary of Labor Hilda Solis announced April 28 at an event commemorating Workers Memorial Day.

OSHA also is in the process of hiring more inspectors as well as developing special emphasis programs on cranes and derricks, hexavalent chromium, occupational asthma, and primary metals, said Richard Fairfax, head of OSHA's enforcement program.

"Let me be clear. The Department of Labor is back in the enforcement business," said Solis. "It's time for a new direction in the department."

Solis and Fairfax, speaking at a workers memorial groundbreaking ceremony on the campus of the National Labor College in Silver Spring, Md., gave no timelines for the emphasis programs or hiring of inspectors.

Solis also announced a new program called the Severe Violators Enforcement Program to intensify the enforcement of negligent employers.

Fairfax said the agency will be "doing a lot of hiring" over the next couple of years to fill out its inspector ranks.

OSHA also will be rebuilding its recordkeeping program, Fairfax said. The agency first will focus on employers who report low injury and illness rates but are in high-rate industries.

The agency is preparing to launch a data collection effort in the construction industry, surveying 25,000 construction employers.

OSHA to Refer Criminal Cases for Prosecution

Jordan Barab, acting assistant secretary of Labor for occupational safety and health, said he will be looking at whether the agency is referring to the Department of Justice all potentially qualifying criminal cases for prosecution and how best to work with DOJ to prosecute those cases.

At an April 30 House Education and Labor Subcommittee on Workforce Protections hearing on OSHA's enforcement program, Barab said the agency is readying a new program to identify and inspect employers with egregiously poor safety records.

Barab told the subcommittee the program, known within the agency as the Severe Violators Inspection Program, will be an extensive revision of the existing Enhanced Enforcement Program with a greater focus on large employers rather than small businesses.

"Although the details are still being worked out, the new program will ensure that recalcitrant employers not meeting their obligations under the OSH Act are targeted for additional enforcement action," Barab said.

"It is important, as we evaluate the effectiveness of our laws, that we do so with the goal of improving those that are working rather than reversing course for politics or an ideological agenda," Rep. Tom Price (R-Ga.), ranking Republican member on the subcommittee, said.

Inspections

Football Facility Collapse Prompts OSHA Investigation

OSHA has begun an investigation into the collapse of a Dallas Cowboys' tent-like practice facility in Irving, Texas, during heavy weather that injured 12 people, including a scouting assistant who was permanently paralyzed from the waist down, agency spokeswoman Elizabeth Todd confirmed May 5.

OSHA investigators were at the site of the damaged 85-foot tall facility May 4, two days after the structure was struck by high winds, Todd told BNA.

Silica

OSHA Issues Silica Guide, Bypasses Outside Review

OSHA released guidance April 28 on controlling silica exposures in construction.

The 72-page guidance document, *Controlling Silica Exposures in Construction*, combines a number of approaches to controlling silica exposures. Employers may choose between task- and tool-based approaches to protect construction workers.

According to Scott Schneider, director of occupational safety and health for the Laborers' Health and Safety Fund of North America, the document was unclear and could have been improved with outside review.

The guidance is available on the Web at <http://www.osha.gov/Publications/3362silica-exposures.pdf>.

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Infectious Diseases

FAA Petitioned for Airline Flu Protection

The Association of Flight Attendants asked the Federal Aviation Administration April 27 for an emergency order requiring airlines to take precautionary measures to protect flight attendants from swine influenza.

The letter, sent to Fred Tilton, FAA's federal air surgeon, requested an emergency order to require airlines to communicate the importance of hand washing to flight attendants and passengers, permit flight attendants to wear their own gloves and masks without disciplinary action, and provide flight attendants traveling in at-risk areas with non-latex gloves and respiratory protection approved by the Centers for Disease Control and Prevention.

"In light of what we have seen with the spread of SARS [Severe Acute Respiratory Syndrome] on commercial flights, the Association of Flight Attendants-CWA, AFL-CIO is concerned by the health threat to airline crew members, passengers, and the public at-large that is posed by swine flu, not to mention the economic threat to airlines," Christopher Witkowski, director of the union's air safety, health, and security department, said in the letter.

The union also endorsed interim guidance issued by CDC April 30 for airlines regarding flight crews arriving from domestic and international areas affected by influenza A (H1N1).

The guidance recommends crew members assisting a passenger with flu-like symptoms wear "a facemask at minimum but ideally use a respirator rated N-95 or higher," while the passenger should wear a surgical mask.

The CDC's "Interim Guidance for Airlines Regarding Flight Crews Arriving from Domestic and International Areas Affected by Swine Influenza" is available on the Web at <http://www.cdc.gov/h1n1flu/guidance/air-crew-dom-intl.htm>.

Noise

AIHA Urges OSHA to Lower Noise Limits

The American Industrial Hygiene Association sent a letter April 28 to Jordan Barab, acting OSHA chief, urging him to take immediate action to lower the permissible exposure limit (PEL) for occupational noise exposure.

AIHA would like noise exposure limits lowered to 85 decibels measured on the A-scale (dBA) from 90 dBA as an eight-hour time-weighted average. AIHA said lowering the PEL to 85 dBA would reduce the number of workers at risk by at least one-half.

Both the American Conference of Governmental Industrial Hygienists and National Institute for Occupational Safety and Health long have recommended such exposure limits, AIHA said in its letter.

A copy of AIHA's letter is available on the Web at <http://www.aiha.org/Idocuments/governmentaffairs/noiseletter-osha-04-28-09.pdf>.

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Infectious Diseases

Safety Advocates, NIOSH Challenge Swine Flu Guidance

The Centers for Disease Control and Prevention revised its influenza A (H1N1) virus guidance recommendation that public health personnel wear a surgical mask if an N95 respirator is not available after criticism from the National Institute for Occupational Safety and Health and safety advocates.

The Service Employees International Union sent an e-mail to CDC saying its members would not be encouraged to go to work if not given the right equipment.

Research has shown a regular surgical mask cannot protect healthcare workers from an influenza virus. CDC April 24 revised a recommendation in H1N1 guidance released three days earlier that suggested public health personnel wear a surgical mask if an N95 respirator was not available. NIOSH told BNA April 23 that it would work with CDC to update the recommendations.

On April 29, CDC announced it would start referring to the "swine flu" as the H1N1 virus.

"Given our concerns about means of transmission of viruses, we at NIOSH consistently have recommended N95 [respirators]," Fred Blosser, a NIOSH spokesman, told BNA April 23. "We are making suggestions to our CDC colleagues for changing that guidance wording."

As of May 7, CDC reported 1,823 probable and confirmed cases of H1N1 in 44 states. There have been two confirmed deaths in the United States associated with the virus.

The agency recommends workers wear disposable gloves, goggles, gowns, and N95 respirators or surgical masks when collecting respiratory specimens. After completing collections, they should dispose of personal protective equipment in a biohazard bag and wash their hands, the agency said.

CDC's "Interim Guidance on Infection Control and Antiviral Recommendations for Patients with Confirmed or Suspected Swine Influenza A Virus Infection" is available on the Web at <http://www.cdc.gov/flu/swine/recommendations.htm>.

Asbestos

Study Finds Mesothelioma Death Rates Have Risen

The number of annual deaths from malignant mesothelioma rose from 1999 to 2005 but because of the long latency period between first exposure to asbestos and the onset of the disease the trend does not necessarily indicate ineffective asbestos exposure regulation, according to the National Institute for Occupational Safety and Health.

Mesothelioma deaths rose steadily year after year, from a low of 2,482 in 1999 to a high of 2,704 in 2005. Only once, from 2000 to 2001, did the number of deaths sink, according to a study NIOSH released April 24.

Mesothelioma, a potentially fatal lung cancer, manifests itself 20 to 40 years after the initial exposure, Eileen Storey, acting chief of NIOSH's respiratory studies branch, told BNA April 27.

"What we're seeing is the legacy of past asbestos usage," said Mike Attfield, NIOSH senior scientist. "That usage rose rapidly in the early 1970s and then, because people began to become aware of [asbestos hazards], it provoked [regulatory] actions. We hope, from a manufacturing point of view, that we've really passed the worst."

Asbestos use in the United States peaked in 1973 at 803,000 metric tons, Ki Moon Bang, a NIOSH research epidemiologist, told BNA.

The Environmental Protection Agency began banning certain types of asbestos in 1989 under the Clean Air Act and Toxic Substances Control Act. OSHA began regulating asbestos exposure in 1971 and since has lowered the exposure limit several times.

Despite the rise in the raw number of deaths, the death rate remained stable throughout the seven years of the study, consistently staying in the range of 14 deaths per 1 million people. Attfield said that was attributable to a rise in the national population.

In the United States, roughly 1.3 million construction and general industry workers currently are exposed to significant levels of asbestos, according to OSHA.

NIOSH's study, "Malignant Mesothelioma Mortality," is available on the Web at <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5815a3.htm>.

NIOSH

Tree Care Deaths Span Multiple Industries, Study Says

A total of 1,285 deaths related to tree care work were reported between 1992 to 2007, or roughly 80 per year, a surveillance report issued April 24 by the National Institute for Occupational Safety and Health said.

The report is significant because, unlike previous studies, it surveys tree care fatalities across all industry types rather than just tree care-specific industries such as landscaping, Cammie Chaumont Menendez, an officer with the Centers for Disease Control and Prevention's Epidemic Intelligence Service, told BNA April 27.

Although 74 percent of the fatalities did occur in the landscaping sector, other deaths were found in construction (8 percent), crop production (7 percent), and utilities (1 percent).

The most common events leading to death were strikes by or against an object, usually a tree or branch (42 percent); falls to a lower level (34 percent); and electrocutions (14 percent).

Menendez also said 57 percent of the workers who died were employed by small companies with 10 or fewer employees.

It is a bit harder for smaller establishments to be aware of OSHA regulations or for OSHA to reach them in terms of enforcing its regulations, Menendez said.

The report was prompted by a 2006 petition in which the Tree Care Industry Association asked OSHA to consider issuing a safety standard to regulate tree care work. OSHA issued an advance notice of proposed rulemaking for the tree care industry Sept. 18, 2008 (73 FR 54118; 11 SNET 148, 10/14/08).

Tree care operations primarily are regulated under OSHA's general duty clause as well as its construction and logging standards, all of which are inadequate to ensure worker safety, Peter Gerstenberger, senior adviser for safety compliance and standards for the Tree Care Industry Association, told BNA April 27.

NIOSH's study, "Work-Related Fatalities Associated With Tree Care Operations," is available on the Web at <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5815a2.htm>.

Federal News

Diacetyl

OSHA Seeks Input, Convenes Diacetyl Small Business Panel

On April 28, Secretary of Labor Hilda Solis announced that OSHA has convened a Small Business Regulatory Enforcement Fairness Act panel to review the agency's draft proposed rule on diacetyl and food flavorings containing diacetyl.

A week earlier, on April 20, OSHA mailed to 13 small business representatives its draft proposed standard for review.

Both actions follow the agency's March 17 withdrawal of an advance notice of proposed rulemaking to facilitate initiating the review panel (12 SNET 41, 3/24/09).

Diacetyl is commonly used in the manufacture of butter-flavored microwave popcorn and can lead to bronchiolitis obliterans, a potentially fatal lung disease.

The small business review panel, made up of representatives from OSHA, the Small Business Administration's Office of Advocacy representatives, and the White House Office of Management and Budget's Office of Information and Regulatory Affairs, will review the draft proposed rule and allow small-entity representatives to comment on the proposal.

The panel must complete the process and submit its final report within 60 days after being convened. Materials provided to the small business representatives have been placed in Docket No. OSHA-2008-0046, which is available on the Web at <http://www.regulations.gov>. OSHA also will put the panel's final report in that docket.

OSHA's letter to the small business representatives, which it defines as those with less than 500 employees, said it intends to hold a teleconference panel May 18, open to the public, for them to provide comments.

Infectious Diseases

OSHA Considers Aerosol Rule To Deal With Swine Flu

OSHA is considering proposing an aerosol transmissible disease standard and in the interim will use the general duty clause to enforce the Centers for Disease Control and Prevention's swine flu guidance as an option to protect healthcare workers, Jordan Barab, acting OSHA chief, told BNA May 5.

Since the outbreak of the influenza A (H1N1) virus, CDC has continually released and updated flu guidance for workers.

An aerosol transmissible disease standard would be similar to one proposed by the California Division of Occupational Safety and Health, Barab told BNA.

The Occupational Safety and Health Act's general duty clause requires every employer to "furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm."

Barab made the comments following a speech at the American Federation of State, County, and Municipal Employees' Nurses Congress in Washington, D.C., May 5 where he addressed H1N1 flu safety measures as well as other safety concerns for healthcare workers.

Barab did not specify a timeline for an aerosol transmissible disease proposal or hint at what it might include if the agency decided to promulgate one. He did express confidence in the guidance OSHA released on pandemic influenza in 2007 for both general workplaces and healthcare settings.

Cal/OSHA's first-of-its-kind aerosol transmissible disease proposal is modeled after the state's bloodborne pathogens standard and would protect against pandemic flu as well as other infectious diseases. It includes communication procedures, disease exposure control plans, medical surveillance, respirator fit-testing, and respiratory protection (12 SNET 37, 3/10/09).

Chemicals

Panels Seek Ways To Cut Methyl Isocyanate Use

House and Senate committee chairmen May 4 asked the U.S. Chemical Safety and Hazard Investigation Board to investigate and provide recommendations on how Bayer CropScience can eliminate or reduce its use of methyl isocyanate at its Institute, W.Va., facility.

In a May 4 letter to the board, House Energy and Commerce Committee Chairman Henry Waxman (D-Calif.) and Senate Commerce, Science, and Transportation Committee Chairman John Rockefeller (D-W.Va.) asked CSB to determine options for Bayer to eliminate or reduce the storage or use of methyl isocyanate (MIC) by switching to alternative chemicals or processes.

They also asked the board to determine whether Bayer has adequately examined the feasibility of switching to such processes and provide recommendations on how to reduce the dangers of onsite storage of MIC. MIC is used in production of the insecticide Larvin[®], the same chemical that caused thousands of deaths in an accident in Bhopal, India, in 1984.

Also signing the letter were Rep. Edward Markey (D-Mass.), chairman of the House Energy and Commerce Subcommittee on Energy and the Environment, and Rep. Bart Stupak (D-Mich.), chairman of the House Energy and Commerce Subcommittee on Oversight and Investigations.

The House Energy and Commerce Subcommittee on Oversight and Investigations announced March 13 that it was launching an investigation into the Aug. 28, 2008, Bayer CropScience explosion in Institute, W.Va., that killed two workers (12 SNET 44, 3/24/09) (see related story, p. 69).

CSB Chairman John Bresland told BNA May 4 that the board received the letter and already is investigating the dangers posed by the MIC tank.

The House and Senate committees' letter to CSB is available on the Web at http://energycommerce.house.gov/Press_111/20090504/bayer.pdf.

State News

California

Farm Labor Contractor Faces Criminal, Civil Charges

The San Joaquin County district attorney filed criminal and civil charges against a defunct farm labor contractor, its owner, and two managers April 23 stemming from the May 2008 death of a 17-year-old pregnant farm worker due to alleged unsafe working conditions (*California v. Colunga*, Cal., No. SF111623, complaint filed 4/23/09).

District Attorney James P. Willett charged Maria De Los Angeles Colunga, owner of Merced Farm Labor, with involuntary manslaughter in connection with the death of Maria Isabel Vasquez Jimenez, who died after working for nine hours in high heat without water or shade (11 SNET 85, 6/10/08). Colunga also was charged with one felony labor code violation and five misdemeanor labor code violations.

Also named in the complaint are former Merced Farm Labor safety director Elias Armenta and former supervisor Raul Martinez.

The district attorney alleges Armenta, Colunga, and Martinez violated occupational safety and health standards, including failure to provide heat illness training, reasonable access to potable water, or shade. In addition, they allegedly failed to make provisions for prompt medical attention in the case of serious injury at a remote location.

The district attorney also filed a civil complaint against Colunga and Merced Farm Labor, along with West Coast Grape Farming Inc., for similar civil violations of the California Code of Regulations (*California v. Merced Farm Labor*, Cal., No. 39-2009-00209874, complaint filed 4/23/09) and state labor code. West Coast Grape Farming Inc. owned the vineyard where Jimenez worked and contracted with Merced Farm Labor for workers.

Merced Farm Labor surrendered its state operating license in August 2008 after being fined \$262,700 for violations discovered during a state investigation of Jimenez's death (11 SNET 133, 9/9/08).

Massachusetts

State Agencies Required To Set Up Safety Committees

Massachusetts Gov. Deval L. Patrick (D) April 27 issued Executive Order No. 511 requiring all state agencies to compile occupational safety data and set up joint labor-management safety and health committees.

Workplace safety advocates hailed the order as a "first step" toward establishing safety standards, including possible protection under the federal Occupational Safety and Health Act for public employees in Massachusetts.

Currently, 27 states apply these regulations to public workers, according to the Massachusetts Coalition for Occupational Safety and Health (MASSCOSH).

The executive order, issued at an annual ceremony commemorating workers injured and killed on the job the previous year, requires all state agencies to appoint safety and health coordinators by Aug. 1 and set up safety committees, in conjunction with applicable collective bargaining representatives, by November. The panels will evaluate the effectiveness of measures to promote safety, survey safety and health hazards, and make recommendations to the state secretary of Labor by Oct. 1, 2010.

Marcy Goldstein-Gelb, executive director of MASSCOSH, said her organization "and virtually all of the public-sector unions have been actively working with the governor since he came into office" in 2007 and the administration has been "very inclusive" in the process.

Documenting existing hazards and safety problems is "an enormous first step that's needed" before the actual implementation of standards, she told BNA April 30.

Patrick could extend OSHA coverage to state agencies through an executive order but OSHA protection for some independent agencies, such as the Massachusetts Bay Transportation Authority, would require legislation or approval of the agencies themselves, Goldstein-Gelb told BNA.

West Virginia

Regulators Say Bayer Lacked Permit for Tank That Exploded

Bayer CropScience lacked the proper hazardous waste permit for a chemical tank that exploded and killed two workers at its plant in Institute, W.Va., Aug. 28, 2008, the West Virginia Department of Environmental Protection said in an April 24 letter to the company.

The explosion and fire at the facility occurred in a methomyl residue treater. Methomyl is a chemical used to produce Larvin[™], an insecticide sold by Bayer, according to company officials (12 SNET 63, 4/28/09).

House and Senate committee chairmen have asked the U.S. Chemical Safety and Hazard Investigation Board to provide recommendations on how Bayer CropScience can eliminate or reduce its use of methyl isocyanate at the Institute, W.Va., facility (see related story, p. 68).

The West Virginia Department of Environmental Protection asked Bayer CropScience after an Oct. 10, 2008, inspection to provide it with information regarding methomyl and the residue treater processes at the facility. In a Dec. 11, 2008, response, Bayer said the tank falls under the Resource Conservation and Recovery Act's recycling exemption.

In response to the company's position, Michael Zeto, chief inspector for the agency, disagreed, saying it does not appear the residue treater is exempt from RCRA regulation as a recycling process. Therefore, the letter said, "future operation of this and similar tank(s) needs to be properly managed under RCRA."

When material drops into the residue treater unit, Zeto said, it becomes a regulated hazardous waste. Bayer CropScience does not qualify for a small-quantity burner provision exception included in the law, he added.

Kathy Cosco, a spokeswoman for the West Virginia Department of Environmental Protection, told BNA April 30 that the agency had not cited Bayer CropScience for lacking the permit and would wait for the company's response to the April 24 letter before deciding how to proceed.

Enforcement

Safety Hazards

McWane Fined \$8 Million For Safety, Other Violations

A New Jersey pipe manufacturer must pay an \$8 million fine and be monitored for four years as part of its sentence for multiple violations of environmental and worker safety laws, a federal court held April 24 (*United States v. Atlantic States Cast Iron Pipe Co.*, D.N.J., No. 3:03-cr-852, 4/24/09).

The U.S. District Court for the District of New Jersey levied the fines against Atlantic States Cast Iron Pipe Co. after the company and four of its managers were convicted in April 2006 on charges they engaged in an eight-year conspiracy to pollute the air and Delaware River by violating the Clean Air Act and Clean Water Act at its Phillipsburg, N.J., facility. The Department of Justice and Environmental Protection Agency also claimed the defendants exposed workers to dangerous conditions and impeded criminal and regulatory investigations (9 SNET 70, 5/9/06).

Three other former managers previously were given lengthy prison sentences for their role in the conspiracy (12 SNET 57, 4/28/09).

In addition to the fine, the company must submit biannual reports to the court ensuring its compliance with the Clean Air Act and Clean Water Act. Atlantic States is a subsidiary of McWane Inc. of Birmingham, Ala., which is among the largest manufacturers of ductile iron pipe.

Prosecutors charged the company and its managers routinely allowed emissions of high levels of pollutants and concealed the releases in violation of government permits and the Clean Air Act.

The company also was charged with covering up accidents at the New Jersey facility. Employee Alfred Coxe was killed March 24, 2000, after he was run over by a forklift with faulty brakes. According to the indictment, the forklift's brakes were repaired before OSHA inspectors arrived. Company officials allegedly lied to the inspectors.

PPE

UCLA Fined Following Investigation of Fatality

California regulators May 4 levied penalties totaling \$31,875 against the University of California, Los Angeles, for workplace safety violations discovered in an investigation of a fatal laboratory accident.

Sheharbano Sangji, a staff research assistant, died 18 days after sustaining second- and third-degree burns over 43 percent of her body in a Dec. 29, 2008, chemical fire in UCLA's Molecular Science Building.

The California Division of Occupational Safety and Health cited the university for four violations, three of which it ranked "serious." The agency was critical of the university's laboratory safety inspection and worker training programs.

Inspectors determined Sangji was not wearing protective clothing, not even a laboratory coat, when a highly reactive liquid compound she was transferring escaped from a syringe and spilled on her clothing, which was made from a synthetic material; hands; and torso. Upon contact with the air, the pyrophoric reagent, t-butyl lithium, immediately ignited, Cal/OSHA said.

Among other matters, Cal/OSHA fined the university \$18,000 for violating standards requiring appropriate and protective clothing. It was the highest of the four penalties.

The investigation also found no records indicating UCLA had trained Sangji or other laboratory employees to work with hazardous chemicals and protect themselves against potential exposure to substances and other potential harm. Finally, investigators discovered a level of flammable solvents stored outside of flammable cabinets that exceeded the National Fire Protection Association limit, Cal/OSHA said.

More specifically, Cal/OSHA cited UCLA's Department of Chemistry and Biochemistry for violations of Title 8 of the California Code of Regulations, California Occupational Safety and Health Regulations.

Process Safety

Process Safety Lapses Likely Led to Bayer Explosion

A "thermal runaway reaction," likely due to lapses in chemical process safety management, caused last summer's explosion at Bayer CropScience's production facility, U.S. Chemical Safety and Hazard Investigation Board investigators said April 23.

At a public meeting in Institute, W.Va., where the pesticide manufacturing complex is located, CSB investigators presented preliminary findings from their inquiry into the Aug. 28, 2008, blast that killed two workers and caused property damage up to seven miles away.

The explosion, which risked exposing area residents to methyl isocyanate (MIC), was caused when high temperature and pressure ruptured a methomyl residue treater, throwing the 5,000-pound vessel 50 feet into the air. Investigators said the explosion nearly damaged a tank holding about 13,000 pounds of MIC, a raw material used to manufacture the insecticide Larvin[®], the chemical that caused death and injury in the Bhopal accident 25 years ago (see related stories, pp. 68, 69).

Bayer has worked with CSB investigators on the scene, but CSB Chairman John Bresland expressed "disappointment" in the company's efforts to block public presentation of the inquiry's findings by citing security-sensitive information as defined under the Maritime Transportation Security Act and Chemical Facility Anti-Terrorism Standards (12 SNET 63, 4/28/09). This legal challenge has consumed an inordinate amount of board resources and slowed the investigation's progress, according to Bresland.

Although Bayer continues to invoke secrecy claims and has not yet given the board all of the documents it has requested, Bresland said the investigation will be "thorough and complete" and performed with a firm commitment "to the public's right-to-know."

Trends in Safety and Health

New Bill, Enforcement Efforts Unveiled in House, Senate

A bill to amend the Occupational Safety and Health Act of 1970 was introduced and then discussed in congressional committees with oversight of workplace safety and health.

Meanwhile, a Department of Labor official promised renewed efforts at enforcing existing laws and regulations.

Protecting America's Workers Act

Rep. Lynn Woolsey (D-Calif.) introduced legislation April 23 that would amend the OSH Act to expand coverage to more workers, increase protections for whistleblowers, and raise penalties for violators.

Woolsey is chairman of the House Education and Labor Subcommittee on Workforce Protections. The legislation was co-sponsored by other Democratic members of the committee.

The Protecting America's Workers Act (H.R. 2067) would make willful violations of the OSH Act resulting in the death of a worker a felony punishable by up to 10 years imprisonment and willful violations resulting in "serious bodily injury" a felony punishable by up to five years imprisonment.

The legislation would raise civil penalties for several types of violations from \$7,000 to \$12,000.

The legislation would extend OSH Act protections to public employees at the federal, state, and local levels. Airline and railroad employees as well as Department of Energy contractors also would be covered.

Committee Urged to Raise Fines

To effectively deter workplace safety violations, willfully negligent employers must face felony prosecutions and higher fines, witnesses told the House Education and Labor Committee at a hearing convened April 28.

"Penalties are the key enforcement mechanism under the OSH Act," committee Chairman Rep. George Miller (D-Calif.) said at the hearing. "They must be real. They must be meaningful. They must func-

tion to deter violations. They must get people's attention. And these enforcement mechanisms must not be a mere cost of doing business."

"It's a moral issue," said Rep. Dale Kildee (D-Mich.). "It's not just a legal issue. It should outrage us. Anger is good."

The current maximum penalties under the OSH Act are \$5,000 for a willful violation and \$7,000 for a willful repeat violation, according to Peg Seminario, safety and health director at the AFL-CIO. Those levels last were adjusted by Congress in 1990, the only time they have ever been raised, Seminario said.

OSHA's penalties also are exempt from a federal law providing for inflationary increases in federal civil penalties, which has reduced the real dollar value of OSHA penalties by about 39 percent since 1990, she said.

"It's not just a legal issue. It should outrage us. Anger is good."

— REP. DALE KILDEE (D-MICH.)

Families Want to Participate

At a Senate hearing April 28, worker safety advocates said the OSH Act should be amended to allow the involvement of victims' families in accident investigations and enforcement actions.

Sen. Edward M. Kennedy (D-Mass.), chairman of the Senate Committee on Health, Education, Labor, and Pensions, was not present at the hearing but said in a written statement he would introduce a Senate version of the Protecting America's Workers Act.

The hearing was held on Workers Memorial Day by the HELP Subcommittee on Employment and Workplace Safety, following Woolsey's introduction of H.R. 2067.

"While no fine or penalty could ever make up for losing a loved one, families like those in this room de-

serve a voice in ensuring there is a price to pay," Sen. Patty Murray (D-Wash.), chairwoman of the subcommittee, said in her opening statement.

"All too often, the first contact by families with OSHA comes after a case is closed," Kennedy said in a written statement. "By then, the citations have been written and the penalties have been assessed. Frequently, the family is not sure about what actually happened to their loved one or to the employer who was responsible. That's not right. Victims and their families deserve better."

OSHA Will Use General Duty Clause

Jordan Barab, acting OSHA chief, told the American Federation of State, County, and Municipal Employees' Nurses Congress May 5 that the agency would use the general duty clause to cite employers for ergonomic and workplace violence hazards.

The general duty clause of the OSH Act requires an employer to "furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm."

Barab said OSHA was considering taking a sector-by-sector approach to regulating ergonomic hazards in lieu of congressional authorization to promulgate a general industry standard. An ergonomics rule made final during the Clinton administration was rescinded in 2001 by Congress using the Congressional Review Act, which also forbids an agency from re-proposing a similar version of the same rule after it has been rejected (4 SNET 42, 3/27/01).

Barab said he first would focus on completing work on current rulemaking, such as an occupational exposure to crystalline silica rule, and updating OSHA's hazard communication standard.

The text of the Protecting America's Workers Act (H.R. 2067) is available on the Web at <http://thomas.loc.gov/cgi-bin/query/z?c111:h2067>.

Safety & Health 2.0

New Applications, Social Media Developed for Emergencies

With cost cuts in both the private and public sectors, state and local officials and workplace safety managers need “cheap and easy” solutions for emergency planning and response, according to the founder and chief executive officer of a software manufacturer.

Mike Geertsen demonstrates his company's \$89 Depiction mapping and simulation software on a “four-year-old, Windows XP laptop,” he told BNA May 6.

New social media and software applications are available or in development for use in emergency planning and response, including the following:

- Centers for Disease Control and Prevention mobile and social networking tools for disseminating emergency information and promoting healthy behaviors,

- Depiction software for running “what-if” scenarios during emergency planning and displaying real-time updates during emergency responses, and

- Microsoft Vine™, a system in beta testing for staying in touch and informed during a crisis.

CDC's Social Media Use

CDC's social media activities include a mobile Web site, Twitter news feed, virtual presence in Second Life and Whyville, and widgets available for download, according to Erin Edgerton, senior social media strategist at CDC. The agency tries to engage with members of the public before a crisis like the recent influenza A (H1N1) outbreak occurs.

“We can't always wait for people to visit CDC.gov. We need to participate in the spaces where individuals are spending their time and, increasingly, that means participating in social media,” Edgerton said.

Webmasters can add a CDC flu update widget to their Web sites as a way of providing users continual alerts on influenza activity.

“Our partners really like the CDC widgets because they have current, credible content that can be easily added to a partner Web site and re-

quire little or no maintenance,” Edgerton said.

Depiction

Depiction so far has been used in responses to Hurricanes Gustav and Ike, according to Geertsen.

During Hurricane Gustav, Depiction was used to coordinate the evacuation of approximately 16,000 pets. Responders learned following Hurricane Katrina many New Orleans residents refused to evacuate because it meant abandoning family pets, Geertsen said.

In the response to Hurricane Gustav, a volunteer with animal rescue group Muttsack used Depiction to coordinate transport and delivery of pet crates to staging areas where residents could drop off pets.

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— ERIN EDGERTON,
CDC

Data From a Drone, Elsewhere

During Hurricane Ike, a Salvation Army officer overseeing the feeding of evacuees from Galveston and Houston, Texas, used Depiction to select feeding sites. He also uploaded real-time data to Depiction from an unmanned aerial vehicle.

Depiction also comes with pre-loaded maps and topographical data from public Web sources, according to Geertsen. Users can access the free data through Depiction's QuickStart menu, he said.

Users also can upload information to Depiction from a spreadsheet in a comma-separated values format. It can integrate live updates sent through e-mail accounts, he noted.

Microsoft Vine™ Beta

Microsoft Corp. has introduced a beta test version of networking service, Microsoft Vine™, that would

help individuals and organizations remain in touch during emergencies, according to a company spokesperson.

Microsoft developers looked at the needs of emergency management officials and first responders, including those involved in the response to the Sept. 11, 2001, terrorist attacks, the spokesperson said.

“We sent a team of Microsoft employees to New York City to meet with officials and front-line responders and learn from their experiences during 9/11.”

Microsoft also examined how it might help families and individuals, focusing on “what they need, what is lacking, and what makes them tune out of existing services.”

A map-based dashboard application gives users access to information about specific locations from “local and national news sources as well as public service announcements from the U.S. National Oceanic and Atmospheric Administration,” according to a product fact sheet.

“However, people don't use ‘new’ things in times of emergency. So Vine™ is a service that is grounded in the tools people use in everyday life related to their family, friends, and neighborhood.”

Microsoft Vine™ also is intended for use by emergency management officials and employers.

“Microsoft Vine™ provides a way for organizations to reach their constituents and get information from them across a variety of different communications mechanisms,” Microsoft's spokesperson said.

Descriptions of and links to CDC social media activities are available on the Web at <http://www.cdc.gov/socialmedia/>. A product description of Depiction as well as purchase and trial version downloads can be found at <http://www.depiction.com/>. A demonstration of and information about the Microsoft Vine™ beta are available on the Web at <http://www.vine.net>.

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