

OSHA

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Acosta fields questions about workplace violence, recordkeeping standards during House hearing

An OSHA standard aimed at preventing workplace violence in health care facilities is progressing, with a Small Business Regulatory Enforcement Fairness Act panel forthcoming, Secretary of Labor R. Alexander Acosta told a House committee May 1.

Making his first appearance before the House Education and Labor Committee, Acosta faced lawmakers' questions on the topic during a hearing titled "Examining the Policies and Priorities of the U.S. Department of Labor."

"It's my hope that you will move forward on [the standard] expeditiously, because those workers need the protection that we can give them," Rep. Bradley Byrne (R-AL) said.

Recent Small Business Regulatory Enforcement Fairness Act panels, such as the one convened last year for a telecommunications towers safety standard, typically have needed around two months to complete their work.

Rep. Pramila Jayapal (D-WA) pointed out that the Small Business Regulatory



Enforcement Fairness Act panel was supposed to begin work in January, saying the rulemaking is moving "at a snail's pace."

The Fall 2018 regulatory agenda had slated that panel to convene in March.

"If you were to compare this to OSHA rulemaking as a general matter, this is not moving at a snail's pace. OSHA rules historically have taken even longer than this," Acosta countered, citing OSHA's silica and beryllium standards.

On OSHA's likely changes to certain ancillary provisions in the beryllium rule, Acosta said DOL is sifting through "fulsome" and "helpful" comments from a notice of proposed rulemaking.

"Sometimes rules have a lot of comments, and those comments don't bring a lot of information," Acosta said. "In this case, they did. We're taking a little bit of time to fully consider those comments before developing a final rule."

— article continues on p. 4

House Appropriations Committee approves large funding increases for OSHA

The House Appropriations Committee approved a funding bill that would give sizable boosts to OSHA, during a markup May 8. The committee’s Labor, Health and Human Services, Education, and Related Agencies appropriations bill allocates more than \$660.9 million for OSHA in fiscal year 2020 – around \$103 million more than the Trump administration’s proposed budget for the agency, released March 11. The administration’s proposal slates OSHA for \$300,000 more than its \$557.2 million FY 2019 budget.

The budget proposal also includes \$12.7 million for the Susan Harwood Training

Grant Program, which the administration is seeking to eliminate for the third consecutive fiscal year. Even with Republicans controlling both chambers the past two fiscal years, Congress hasn’t complied, allocating a little more than \$10.5 million for the program in FY 2019.

The Department of Labor wants to “maximize flexibility and use alternative methods to develop and distribute training materials to reach the broadest possible audience” in lieu of the grants, the department’s budget summary states.

Overall, the proposed budget would give more than \$13.3 billion to DOL



– around \$1.2 billion more than in FY 2019 and \$2.4 billion more than the administration’s proposal.

The bill will next need approval from the full House, and, at press time, the Senate had yet to weigh in with its proposed budget numbers.

OSHA ALLIANCES

The OSHA Alliance Program fosters collaborative relationships with groups committed to worker safety and health. Alliance partners help OSHA reach targeted audiences and give them better access to workplace safety and health tools and information. For more on OSHA alliances, go to osha.gov/dcsp/alliances/index.html.

Illinois Funeral Directors Association

Date of alliance: April 10, 2019

Through the alliance, the organizations will use relevant injury, illness and hazard exposure data when appropriate to help identify areas of emphasis for alliance awareness, outreach and communication activities. The alliance will also explore and implement selected options to evaluate the effectiveness of the alliance and measure the impact of its overall effort on improving workplace safety for employers and workers.

Raising awareness of OSHA’s rulemaking and enforcement initiatives:

- Share publicly available information on OSHA’s national and regional emphasis programs, regulatory agenda, and opportunities to participate in the rulemaking process.
- Share publicly available information on occupational safety and health laws



and standards, including the rights and responsibilities of workers and employers.

- Convene or participate in forums, roundtable discussions or stakeholder meetings on recognizing common hazards associated with the funeral industry and ways to minimize exposure, help implement innovative solutions in the workplace, and to provide input on site-specific safety and health issues. These hazards may include hazard communication, chemical exposures, personal protective equipment, respiratory protection, bloodborne pathogens, walking-working surfaces and electrical hazards.
- Encourage worker participation in workplace safety and health by increasing hazard awareness training and reporting.

Training and education:

- Develop and deliver effective training and education programs for the funeral industry addressing hazard communication, chemical exposures, PPE, respiratory protection, bloodborne pathogens, walking-working surfaces, electrical hazards, and other hazards and effective controls associated with the industry.

Outreach and communication:

- Develop information on the recognition and prevention of workplace hazards, and develop ways of communicating such information to employers and workers in the industry.
- Provide free safety and health consulting using OSHA On-Site Consultation to assist in addressing site-specific hazards at individual locations.

Excerpted from osha.gov/dcsp/alliances/regional/reg5/ifda_final.html.

In Other News...

\$10.5 million in Susan Harwood Training Grant funding available

OSHA has made available \$10.5 million in grants to improve worker safety and health as part of its Susan Harwood Training Grant Program, the agency has announced. Eligible for the funding are nonprofit organizations, employer associations, labor unions, joint labor and management associations, Native American tribes, and colleges and universities.

The program “supports in-person, hands-on training for workers and employers in small businesses; industries with high injury, illness and fatality rates; and vulnerable workers who are underserved, have limited English proficiency or are temporary workers,” a May 3 press release states.

The grants are available in three categories: targeted topic training, training and educational materials development, and capacity building. Applications are due July 2 and must be submitted electronically at grants.gov.

OSHA launches webpage on radiation emergency preparedness and response

OSHA has created a webpage intended to educate workers about how to protect themselves in radiation-related situations ranging from a small, isolated spill in a laboratory to a potentially catastrophic release at a nuclear facility.

The “Radiation Emergency Preparedness and Response” webpage provides resources on health and safety planning, medical monitoring and dosimetry, and other relevant topics for workers “who may be impacted by radiation emergencies” or “who may be involved in emergency response operations or related activities.”

To check out the new OSHA webpage, go to osha.gov/SLTC/emergencypreparedness/radiation.

OSHA STANDARD INTERPRETATIONS

OSHA requirements are set by statute, standards and regulations. Interpretation letters explain these requirements and how they apply to particular circumstances, but they cannot create additional employer obligations. Enforcement guidance may be affected by changes to OSHA rules.

Hazard Communication Standard – SDS responsible party and hazards not otherwise classified

Standards: 1910.1200, 1910.1200(f)(6), 1910.1200(g)(2)(ii), 1910, 1200 App C and 1910.1200 App D

Date of response: Sept. 18, 2018

(Continued from the May 2019 issue of OSHA Up To Date.)

Your letter requested clarification on the required contact information on Safety Data Sheets for imported products. You also asked if importers may create a hybrid SDS and label, meeting both OSHA’s revised Hazard Communication Standard (HCS 2012) at 29 CFR 1910.1200 and Canada’s revised Hazardous Products Regulations (HPR) with its modified Workplace Hazardous Materials Information System (WHMIS 2015).

Question 6: If the foreign distributor provides an SDS with its own (foreign) address in Section 1, is the U.S. importer allowed to use that address as the responsible party, or is it required to put its own company name/address on the SDS as the responsible party and take full responsibility for the content of the SDS?

Response: When chemicals are imported into the United States, the person (meaning one or more individuals, partnerships, associations, corporations, business trusts, legal representatives, or any organized group of persons) who imported the product automatically becomes the responsible party.

Question 7: Health Canada’s WHMIS 2015 contains a provision that does not require a Canadian importer to have its own Canadian address on a WHMIS 2015-compliant SDS, as long as the chemical is being fully consumed onsite. Is the United States looking to adopt something similar?

Response: Although Health Canada’s WHMIS 2015 regulation does not require an importer to include its address on its SDS for chemicals to be used onsite, OSHA’s HCS 2012 requires that all SDSs must include a U.S. address in Section 1.

Question 8: Please clarify what constitutes “a company contracted to provide more information,” as referenced in OSHA CPL 02-02-079, Section X.C.19, which states: “Responsible party means someone who can provide additional information on the hazardous chemical and appropriate emergency procedures, if necessary. This could be the manufacturer or importer or a company contracted to provide more information. The name and address of the responsible party MUST be the same on the SDS and the label.”

Response: A contracted company that provides additional information for a hazardous chemical may be an SDS author or contracted preparer, such as an online SDS service. In this arrangement, a manufacturer or importer may agree to list the contracted company on its chemical label and SDS as the party to be contacted to provide additional or emergency information. However, the manufacturer or importer remains as the responsible party and, as such, maintains the ultimate responsibility for compliance with OSHA’s HCS.

Amanda Edens, Acting Director
Directorate of Enforcement Programs

Excerpted from osha.gov/laws-regs/standardinterpretations/2018-09-18.

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Electronic recordkeeping rollback

Acosta again turned to privacy concerns when Rep. Andy Levin (D-MI) inquired about OSHA's recent rollback of its electronic recordkeeping rule. The secretary said DOL is facing lawsuits from both sides of the debate, including the Chamber of Commerce and watchdog group Public Citizen, among others.

"Congressman, [the rule] was asking for very detailed information about workers' specific injuries: if they were injured, what part of the body was injured, whether they lost a part of their body," Acosta said.

After contending that the rule and database didn't allow the transmission of confidential information, Levin said, "Without that information, researchers couldn't do any effective work, could they? They wouldn't know about repetitive

injuries to wrists or legs if you just made it so generic."

The lawmaker added that the Mine Safety and Health Administration has gathered similar information for many years and "there have been zero problems with confidentiality."

Opioids

Byrne and Rep. David Trone (D-MD) asked about the prescribing of opioids in the federal workers' compensation program after testimony from DOL Inspector General Scott Dahl in May 2018.

Acosta said the program is putting in "effective controls and tailored treatment" if prescriptions reach certain levels.

"We have a specialized team that notices prescription levels and will contact the providers," he said, touting a 31% decrease in overall opioid use in the program and a 52% decline in opioid prescriptions of 30-plus days.

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