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Senate confirms Acosta as Secretary of Labor

R. Alexander Acosta is the new Secretary of Labor, after the Senate confirmed him April 27 in a bipartisan vote of 60-38.

Vice President Mike Pence administered the oath of office for Acosta on April 28.

"I want to thank President Trump, Vice President Pence and the members of the Senate for the privilege of serving as Secretary of Labor," Acosta said after the swearing-in ceremony. "As Vice President (sic) said, it is about finding and helping and supporting jobs and job growth."

Trump nominated Acosta on Feb. 16, one day after initial nominee Andrew Puzder withdrew his name from consideration.

Acosta previously served in the Department of Justice during the George W. Bush administration and was a member of the National Labor Relations Board. Prior to his swearing-in as Department of Labor chief, he was dean of the law school at Florida International University, a position he had held since 2009.

Eight Democrats and one independent voted in favor of Acosta, the son of



April 28: R. Alexander Acosta (left), accompanied by his wife and daughters, is sworn in as secretary of labor by Vice President Mike Pence.

Cuban immigrants who also has served as a federal prosecutor.

"Once Mr. Acosta officially assumes his new position, I hope his focus will be to unleash the power of the American workforce by promoting labor policies that are free of unnecessarily burdensome federal regulations," Sen. Tim Scott (R-SC) said in an April 27 press release.

Rep. Virginia Foxx (R-NC), chair of the House Education and Workforce Committee, also championed the move.

"America's workers and employers desperately need a new direction at the Department of Labor," Foxx said in an

April 27 press release. "That day has finally come. I wish to congratulate Alexander Acosta on his confirmation to serve as labor secretary. This is an important responsibility that requires taking on powerful special interests and restoring fairness and balance to federal labor policies."

Acosta highlighted worker safety as an important focus of his position while speaking at his confirmation hearing March 22 before the Senate Health, Education, Labor and Pensions Committee.

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Safety agencies see no significant cuts in latest FY17 spending bill

OSHA's funding will remain unchanged for the remainder of fiscal year 2017 under a spending bill passed by Congress on May 4, although future funding remains unclear. Meanwhile, NIOSH received a significant increase from what originally was proposed, and the Mine Safety and Health Administration received a relatively small cut.

The Consolidated Appropriations Act averted another government shutdown and kept the approximately \$552.8 million allocated to OSHA for fiscal 2017, which ends Sept. 30. In July 2016, the House Appropriations Committee proposed cutting the agency's funding by 3.3 percent, or \$18.4 million.

NIOSH is slated for \$335.2 million, far more than former President Barack Obama's proposed budget expenditure of \$213.6 million. The agency received about \$339.1 million in fiscal year 2016.

Funding for MSHA is about \$2.1 million lower than in fiscal year 2016, with a decrease of about \$7.9 million for coal mine enforcement. The agency's educational policy and development funding received a \$3 million increase, and its metal/non-metal enforcement received a boost of about \$2.8 million.

OSHA received an increase of a little more than \$4.3 million for compliance assistance. The agency's largest cuts were

aimed at standards development (\$2 million), and safety and health statistics (\$1.35 million).

The cuts could go much deeper for fiscal year 2018, with President Donald Trump proposing a \$2.5 billion decrease to the Department of Labor's budget and elimination of the Chemical Safety Board, one of 19 independent agencies potentially on the chopping block.

More than a dozen safety-related organizations, including the National Safety Council, sent letters to the House and Senate appropriations committee leaders this year requesting that fiscal year 2018 funding for OSHA and NIOSH remain close to current levels.

ASK THE EXPERT

with Rick Kaletsky

Q: Are wedding venues covered by OSHA? If so, what should be my first concern if I inspect the facility?

A: If there is an employer-employee relationship, OSHA should have jurisdiction. Consider wait staff, kitchen workers, managers and so on. They may be direct employees of the establishment. There also could be outside vendors, such as caterers and DJs, who work the events.

If I were inspecting for hazards to occupants, my first concern is exits. I've seen access to exits severely impeded by tables for dining, as well as by long tables for buffets. Musician and DJ equipment frequently blocks or sharply diverts access to marked exits. Large sound equipment or cords/cables add trip hazards to the access-to-escape hazard.

I visited a huge reception room that boasted a wall of glass-paneled, side-hinged, exit-type doors. However, only

a few (albeit a sufficient number for the occupancy) were labeled as exits. Could the unlabeled doors be easily opened in an emergency evacuation? I don't know.

It is unacceptable for those in charge of the venue to reason that evacuees will only proceed to doors marked "EXIT." Occupants should not have to think about such things in an emergency. Remove all doubt by marking each door "EXIT" or "NOT AN EXIT."

In addition, think about the doors that lead to a courtyard from which there is no way out other than back through the building doors. Again, "NOT AN EXIT" signs are necessary.



Former OSHA inspector turned consultant **Rick Kaletsky** is a 46-year veteran of the safety industry. He is the author of "OSHA Inspections: Preparation and Response," published by the National Safety Council. Now in its 2nd edition, the book has been updated and expanded in 2016. Order a copy at www.nsc.org.

In Other News...

OSHA Training Institute seeking nonprofit partners for Education Centers Program

OSHA is requesting applications from nonprofit organizations interested in providing occupational safety and health classes as part of the agency's Training Institute Education Centers Program.

The program offers private- and public-sector training similar to OSHA's Training Institute in Arlington Heights, IL.

Applicants will be judged on their ability to serve regional areas and OSHA's training requirements, as well as on other qualifications.

The deadline to apply is June 30. Applications should be mailed to Jim Brock, U.S. Department of Labor, OSHA Directorate of Training and Education, 2020 S. Arlington Heights Road, Arlington Heights, IL 60005-4102.

Safe+Sound Week is June 12-18

OSHA, the National Safety Council, the American Industrial Hygiene Association, the American Society of Safety Engineers and NIOSH have designated the week of June 12-18 as Safe+Sound Week.

The nationwide effort aims to promote awareness and understanding of the value of workplace safety and health programs.

Organizers of Safe+Sound Week are encouraging employers to host events promoting the building blocks of safety and health programs: management leadership, worker participation, and finding and fixing workplace hazards.

For more information, go to www.osha.gov/safeandsoundweek.

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.

Recording and Reporting Occupational Injuries and Illnesses

Standard: 1904.5

Date of response: Aug. 23, 2016

An employee was operating a powered industrial truck (a "walkie"). Her foot became jammed between the walkie and a pallet and her steel toed shoe bent and cut the top of her toe. She received four stitches for the laceration. At the time of the incident, the employee was taking prescription medication for a non-work related condition, which had the potential to cause loss of awareness of her surroundings. You believe this meets the work-related exception in Section 1904.5(b)(2)(ii) where the injury or illness involves signs or symptoms that surface at work but result solely from a non-work-related event or exposure that occurs outside the work environment. This case meets OSHA's definition of work-relationship. Because the case involved medical treatment beyond first aid, it must be recorded on your OSHA Form 300.

Section 1904.5(a) states, "[the employer] must consider an injury or illness to be work-related if an event or exposure in the work environment either caused or contributed to the resulting condition. Work-relatedness is presumed for injuries and illnesses resulting from events or exposures occurring in the work environment, unless an exception in Section 1904.5(b)(2) specifically applies." Under this language, a case is presumed work-related if an event or exposure in the work environment is a discernible cause of the injury or illness or of a significant aggravation to a pre-existing condition. The work event or exposure needs only be one of the discernible causes; it need not be the sole or predominant cause.

Under Section 1904.5(b)(2)(ii), you are not required to record a case if the injury or illness involves signs or symptoms that surface at work but result solely from a non-work-related event or exposure that occurs outside the work environment. For this exemption to apply, the resultant injury must be solely a result of the employee's non-work related condition. In other words, an event or exposure in the work environment can play no part in the injury. The facts of your scenario do not meet this exception because the injury described resulted from operation of workplace equipment.

Likewise, the exemption to work relatedness under Section 1904.5(b)(2)(vi) would not apply for the same reason. Under Section 1904.5(b)(2)(vi), you are not required to record an injury or illness if the injury or illness is solely the result of self-medication for a non-work-related condition. The injury described in your scenario resulted from operation of workplace equipment.

The fact that the employee received training on the equipment and the equipment was inspected and in proper working order are not considerations for determining work-relationship for OSHA recordkeeping purposes.

Sincerely,

Amanda Edens, Director

Directorate of Technical Support and Emergency Management

Excerpted from: www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=INTERPRETATIONS&p_id=31061

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“Good jobs should also be safe jobs,” Acosta said. “Congress has enacted workplace safety laws. The Department of Labor enforces these, and if confirmed, I will work to enforce the laws under the department’s jurisdiction fully and fairly. As a former prosecutor, I will always be on the side of the law and not any particular constituency.”

Sen. Lamar Alexander (R-TN), chairman of the HELP Committee, lauded Acosta’s background.

“We are fortunate to have a presidential nominee for Labor Secretary who understands how a good-paying job is critical to helping workers realize the American dream for themselves and for their families,” Alexander said in an April 26 press release. “Alexander Acosta became the first person in his family to

go to college and from there has had an impressive career.”

Not all were in favor of Acosta, however. Sen. Patty Murray (D-WA), ranking member of the HELP Committee, reiterated her apprehension prior to his confirmation.

“I have serious concerns, given Mr. Acosta’s professional history, about whether undue political pressure would impact decision-making at the Department,” Murray said in an April 26 press release. “My concerns were only heightened at his nomination hearing, when Mr. Acosta said he would defer to President Trump on the priorities of the Department of Labor. We need a Secretary of Labor who will prioritize workers and the mission of the Department of Labor over special interests and political pressure.”

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