



**TVS – AIHA Board Meeting
July 15, 2010
Government Affairs
(April 15, 2010 – Present)**

1. OSHA chief Dr. David Michaels said OSHA's priorities include establishing an Illness and Injury Prevention Program (I2P2) and increasing both monetary and criminal penalties for employers who willfully endanger lives.
2. OSHA is conducting stakeholders meeting on I2P2 as a step gather information to develop a rule that would require that employers develop a plan, with worker participation, to identify the hazards present in their worksites and address them before they cause an injury, illness, or death. The next meetings are in Washington on July 20, 2010 and on Aug. 3, 2010 in Sacramento, CA. Cal-OSHA has a standard in place. Information on I2P2 can be found at <http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201004&RIN=1218-AC48>.
3. OSHA has assumed a leadership role in addressing the issue of outdated PELs by expanding an internal working group to include a broad group of stakeholders to look at various options
4. The Protecting America's Workers Act (PAWA) purpose is to provide additional tools to ensure that OSHA can fulfill its duty to enforce safe and healthy workplaces for all American workers. Specifically, the PWAA will expand OSHA's coverage to protect more workers (including DOE contractors, state and local public employees, and transportation employees), strengthen penalties, improve whistleblower protection, and allow workers and their families to hold dangerous employers accountable. The PAWA has been introduced into both the House and Senate, but the only activity is in the House, which had a hearing to discuss the section of the bill that would raise civil and criminal penalties for employers found in violation of OSHA rules and regulations. AIHA feels that the chance of this legislation being enacted grows slimmer by the day.
5. Congress has introduced legislation to provide OSHA more oversight of state plans because they feel that some OSHA states do not seem to be operating efficiently. The bill was introduced as a direct result of construction deaths that occurred in Nevada, where a review showed that the Nevada state plan was not adequate.
6. Belief is that OSHA, due to strong opposition, will back off from their attempt to weaken the VPP.
7. OSHA's Severe Violator Enforcement Program (SVEP) directive, which became effective in mid-June, will focus on employers who continually disregard their legal obligation to protect their workers. The program will concentrate on inspecting those employers with enforcement actions to include mandatory follow-up inspections, enhanced settlement provisions, and federal court enforcement. The news release is at http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=NEWS_RELEASES&p_id=17544 and the directive is at <http://www.osha.gov/dep/svep-directive.pdf>.
8. OSHA plans to have a final rule by August 2010 to restore the MSD column on the OSHA 300 log.

9. OSHA announced “a request for information” on occupational exposure to infectious agents in settings where healthcare is provided. This indicates that OSHA is considering some sort of standard to address the issue. The entire Federal Register notice can be found at <http://edocket.access.gpo.gov/2010/2010-10694.htm>. Cal-OSHA has adopted an Aerosol Transmissible Disease standard.
10. OSHA has several National Emphasis Programs (NEP), Special Emphasis Programs (SEP), and Local Emphasis Programs. Links to these programs are <http://www.osha.gov/dcp/neps/nep-programs.html> and http://www.osha.gov/dep/local_emphasis_programs.html. These programs include items such as recordkeeping, combustible dusts, silica, etc. The recordkeeping NEP (http://www.osha.gov/OshDoc/Directive_pdf/CPL_02_09-08.pdf) involves inspecting occupational injury and illness records prepared by businesses and enforcing regulatory requirements when employers are found to be under-recording injuries and illnesses.
11. Legislative actions associated with the IH profession in Tennessee can be found at <http://www.aiha.org/news-pubs/govtaffairs/stateactivitycenter/tennessee/Pages/default.aspx>. Once on this page, you must log in using your AIHA membership number and last name.
12. OSHA Activity (from April 15, 2010 through July 1, 2010)
 - OSHA posted 26 years of data on a web page (<http://www.osha.gov/opengov/healthsamples.html>) detailing workplace exposures to toxic chemicals such as asbestos, benzene, beryllium, cadmium, lead, nickel, and silica. This Web page has since been enhanced by the addition of a search engine to make the data more accessible and expand its usefulness as a research tool. The page's online form now allows users to search and sort records of OSHA samplings for toxic chemical exposure by categories such as establishment, industry, state, year range, substance, and OSHA inspection number. Users can also download sampling data from 1984 to 2009, either in one full set or by individual year.
 - OSHA's final rule requiring employers to notify their workers of all hexavalent chromium exposures goes into effect June 15. The rule revises a provision in OSHA's Hexavalent Chromium standard that required workers be notified only when they experienced exposures exceeding established safe limits. The final rule is at (http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=FEDERAL_REGISTR&p_id=21503), and the news release is at http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=NEWS_RELEASE_S&p_id=17769.
 - Methylene chloride is a volatile, cancer-causing liquid used in different industries including metal cleaning and degreasing and in the manufacture of products including pharmaceuticals and paint remover. OSHA recently reviewed its Methylene Chloride standard, as required within 10 years of enactment, to determine how well it was fulfilling its purpose of safeguarding the health of America's workers. The review clearly showed that the standard has been effective in saving lives. The study estimates that each year the standard protects as many as 30,000 to 54,000 workers from damage to their respiratory and nervous systems and prevents approximately 34 deaths from cancer and other illnesses caused by methylene chloride exposure. This standard's success reflects the overall importance of OSHA standards in protecting workers' safety and health. See the Federal Register notice for more information on this review (http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=FEDERAL_REGISTR&p_id=21467).
 - The Bureau of Labor Statistics has released a final count of 5,214 worker fatalities that occurred in the U.S. during 2008. Although the final figure was the lowest annual total

since the fatality census was first conducted in 1992 it is still tragically high, representing an average of more than 14 worker deaths each day. Additional information can be found at http://www.bls.gov/iif/oshwc/foi/foi_revised08.pdf.

- OSHA's new *Filling, Moving and Placing Sandbags* fact sheet (<http://www.osha.gov/Publications/quickcard/flooding-sandbags.html>) explains how to protect flood response workers as they perform the physically demanding job of protecting communities from damaging and potentially deadly floodwaters.
 - OSHA's data on employer specific injury and illness incidence rates is now publicly available on Data.gov and its Web site (http://www.osha.gov/pls/odi/establishment_search.html). OSHA collects work-related injury and illness data from more than 80,000 employers within specific industries and of a certain employment size. The agency uses this data for its strategic management plan and as a targeting mechanism for its Site-Specific Targeting enforcement program.
 - The most frequently cited OSHA standards can be found at http://www.osha.gov/pls/imis/citedstandard.sicman?p_esize=&p_state=FEFederal.
 - Bi-weekly e-news memos, called *OSHA QuickTakes*, “with information, updates, and results from OSHA about safety and health in America’s workplaces” are available at <http://www.osha.gov/as/opa/quicktakes/index.html>. Each memo provides OSHA information from the previous 2 weeks, and normally includes a topical safety message.
 - OSHA posts safety and health-related conference and meeting information to the events page (<http://www.osha.gov/as/opa/events/osha-conferences.html>) on its Web site.
 - [OutreachTrainers.org](http://www.outreachtrainers.org) (http://www.outreachtrainers.org/client/trainer_results.aspx) is a free Web site dedicated to the Outreach Training Program community. Developed in cooperation with OSHA's Directorate of Training and Education, the site provides easy access to scheduling information for 10- and 30-hour Construction and General Industry training classes. Employees interested in training can search from more than 700 registered outreach trainers, and find course locations and schedules based on the type of training and proximity. Additionally, authorized outreach trainers can list their class schedules, profile and contact information. OSHA anticipates that this site will become a key component in helping organizations find training that matches their employees' needs. The OSHA Outreach Training Program is the agency's primary method of training employees in hazard recognition and prevention.
 - The new [Southeastern OSHA Training Institute \(OTI\) Education Center](http://www.ies.ncsu.edu/otieducationcenter/) (<http://www.ies.ncsu.edu/otieducationcenter/>) located at North Carolina State University in Raleigh, N.C., is offering OTI courses. Classes are forming in the spring of 2009 at the University of Tennessee in Knoxville, the Southeastern OTI Education Center's partner organization. To register for classes or obtain additional information, call 1-800-227-0264 or visit the center's Web site listed above.
 - Free publications are available from OSHA on their Publications web page (<http://www.osha.gov/pls/publications/publication.AthruZ?pType=AthruZ>)
13. OSHA Semiannual Regulatory Agenda (published April 26, 2009) (Only items pertaining to industrial hygiene are included.) (**Updates from the previous Semiannual Regulatory Agenda are in bold**)
- a. Pre-rule Stage
 - Occupational Exposure to Crystalline Silica – address outdated PELs; NIOSH and ACGIH recommend 50 $\mu\text{g}/\text{m}^3$ and 25 $\mu\text{g}/\text{m}^3$ exposure limits, respectively, for respirable crystalline silica. Both industry and worker groups have recognized that a comprehensive standard for crystalline silica is needed to provide for exposure monitoring, medical surveillance, and worker training. Hope to initiate a peer review

of health effects and risk assessment by 06/09. **The peer review was completed on 01/24/10. OSHA plans to publish a Notice of Proposed Rulemaking in 02/11.**

- Occupational Exposure to Beryllium – gathering information to establish a standard; small business review report was completed 01/23/08; are currently conducting a scientific peer review of its draft risk assessment **hope to complete the peer review of health effects and risk assessment by 11/10.**
- Ionizing Radiation - OSHA is considering amending 29 CFR 1910.1096 that addresses exposure to ionizing radiation (published in 1974). The next step for the ionizing radiation project is to hold discussions with key stakeholders. OSHA held meetings in 03/07 and 04/07 that were targeted to specific stakeholder groups, including state organizations with responsibility for worker exposure to ionizing radiation, professional associations, and specific industry groups such as dental, medical and veterinary professionals. **No additional timetable at this time.**
- Emergency Response and Preparedness – collecting information to evaluate what action should be taken since there are several outdated standards that need to be updated; OSHA will be collecting information to evaluate what action the agency should take; Request for Information by 07/07; review comments by 07/08. **No additional timetable at this time.**
- Methylene Chloride - OSHA will undertake a review of the methylene chloride standard (29 CFR 1910.1052). The review will consider the continued need for the rule, whether the rule overlaps, duplicates or conflicts with other Federal, State, or local regulations, and the degree to which technology, economic conditions or other factors may have changed since the rule was evaluated. There was a request for comments in 06/07, and the review is to be completed by 06/08. Comment period ended on 3/10/08. The end of the review is scheduled for 04/10.
- Diacetyl - On July 26, 2006, the United Food and Commercial Workers International Union (UFCW) and the International Brotherhood of Teamsters (IBT) petitioned DOL for an Emergency Temporary Standard (ETS) for all employees exposed to diacetyl, a major component in artificial butter flavoring. Evidence from NIOSH and other sources indicated that employee exposure to diacetyl and food flavorings containing diacetyl is associated with bronchiolitis obliterans, a debilitating and potentially fatal disease of the small airways in the lung. Severe obstructive airway disease has been observed in the microwave popcorn industry and in food flavoring manufacturing plants. Experimental evidence has shown that inhalation exposure to artificial butter flavoring vapors and diacetyl damaged tissue lining, the nose, and airways of rats and mice. A stakeholder meeting was held on 10/17/07. Planned to have a small business review report in 05/08. The advance notice of proposed rulemaking (ANPRM) was withdrawn on March 17, 2009 in order to facilitate timely development of a standard. The Agency subsequently initiated review of the draft proposed standard in accordance with the Small Business Regulatory Enforcement Fairness Act (SBREFA). The SBREFA Panel Report was completed on July 2, 2009. A peer review of the health effects and risk assessment to be initiated by 10/10.
- OSHA will undertake a review of the Bloodborne Pathogen Standard (29 CFR 1910.1030) to consider the continued need for rule, whether the rule overlaps, duplicates or conflicts with other Federal, State or local regulations, and the degree to which technology, economic conditions or other factors may have changed since the rule was evaluated. **The review began on 10-22-09 and the request for comments was anticipated in 04-10.**

- Combustible Dust – OSHA issued an Advanced Notice of Proposed Rulemaking in 10/21/09. Comments are due 1/19/10. The proposal can be found at <http://edocket.access.gpo.gov/2009/E9-25075.htm>. **OSHA held its first virtual stakeholder meeting June 28, 2010 to seek input about combustible dust workplace hazards.**
- b. Proposed Rule Stage (“**Confined Spaces in Construction**” not included)
 - Updating OSHA Standards Based on National Consensus Standard – During the first 2 years of the OSH Act, the Agency was directed to adopt national consensus standards as OSHA standards. In the more than 30 years since these standards were adopted by OSHA, the organizations responsible for these consensus standards have issued updated versions of these standards. However, in most cases, OSHA has not revised its regulations to reflect later editions of the consensus standards. OSHA standards also continue to incorporate by reference various consensus standards that are now outdated and, in some cases, out of print. The Agency is undertaking a multi-year project to update these standards. A notice describing the project was published in the Federal Register on November 24, 2004 (69 FR 68283). The first final rule was published on September 13, 2005. Several additional sets of standards are in preparation. This direct final rule will become effective on March 13, 2008 unless significant adverse comment is received by January 14, 2008. Comments to this direct final rule (including comments to the information-collection (paperwork) determination described under the section titled SUPPLEMENTARY INFORMATION of this notice), hearing requests, and other information must be submitted by January 14, 2008. **No additional timetable at this time.**
 - Standards Improvement - OSHA is continuing its efforts to remove or revise duplicative, unnecessary, and inconsistent safety and health standards. This effort builds upon the success of the Standards Improvement Projects (SIPs) Phase I published on June 18, 1998 (63 FR 33450) and Phase II published on January 5, 2005 (70 FR 1111). The Agency believes that such changes can reduce compliance costs and reduce the paperwork burden associated with a number of its standards. To initiate the project, OSHA will be publishing an advance notice of proposed rulemaking (ANPRM) to solicit input from the public on rules that may be addressed in Phase III of SIPs. The Agency plans to include both safety and health topics in Phase III. OSHA published the ANPRM on 12/21/06. Records are now being analyzed, beginning in 04/07. A notice of proposed rulemaking is expected in 11/08. **No additional timetable at this time.**
 - Hazard Communication – OSHA is considering modifying its Hazard Communication Standard to make it compatible with the Globally Harmonized System. This would involve changing the criteria for classifying health and physical hazards, adopting standardized labeling requirements, and requiring a standardized order of information for MSDS. The proposed rule was published on 09/30/09 and can be found at <http://edocket.access.gpo.gov/2009/E9-22483.htm>. **No additional timetable at this time.**
 - Occupational Injury and Illness Recordkeeping Requirements –OSHA hopes to announce a Notice of Proposed Rulemaking (NPRM) in early 2010. The purpose is to require the recording of work-related musculoskeletal disorders on the 300 log. This will likely be very controversial. **No additional timetable at this time.**
 - Cooperative Agreements – OSHA plans to offer incentives to employers who request and receive consultation visits and agree to correct the hazards. The incentives to be

provided were not provided. OSHA hopes to put out a notice of proposed rulemaking by 07/08. **No additional timetable at this time.**

- c. Final Rule Stage (“**Electric Power Transmission and Distribution; Electrical Protective Equipment**” and “**Cranes and Derricks**” not included)
 - **Nothing new at this time.**
- d. Long-Term Action
 - OSHA will undertake a review of the Bloodborne Pathogen Standard (29 CFR 1910.1030) in accordance with the requirements of the Regulatory Flexibility Act and section 5 of Executive Order 12866. The review will consider the continued need for rule, whether the rule overlaps, duplicates or conflicts with other Federal, State or local regulations, and the degree to which technology, economic conditions or other factors may have changed since the rule was evaluated. **There is no timetable at this time.**
- e. Completed Actions
 - **Nothing new at this time.**

Prepared by:

Harry A. Pullum, CIH, CSP, CIAQP
National Practice Program Leader
Industrial Hygiene and Safety
Shaw Environmental, Inc.
312 Directors Drive
Knoxville, Tennessee 37923
harry.pullum@shawgrp.com
(865) 694-7332 (Office Direct)
(865) 368-4248 (Cell)
(865) 690-3626 (Fax)
www.shawgrp.com