



*Week of 2-13-23
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Congressional Overview

The House is in recess until February 27th, and the Senate had a light floor agenda voting on President Biden's nominees. Despite being in recess this week, the new House Republican majority held various field hearings regarding increased energy production and tighter security at the southern U.S. Border.

Selecting the Next Labor Secretary

Last week, Labor Secretary Marty Walsh announced his resignation to run the National Hockey League (NHL)'s Players' Association. Sen. Bernie Sanders (I-VT), chair of the Senate Health, Education, Labor, and Pension (HELP) Committee, is backing Sara Nelson, President of the Association of Flight Attendants, or former Labor Secretary Robert Reich.

Asian-American lawmakers and some outside groups are calling on President Biden to nominate Julie Su, Deputy Secretary of Labor, to succeed Walsh. Su also has the backing of the Congressional Black Caucus. Nelson, 49, is in her third term running the nearly 50,000-member flight attendants union. Reich, 76, served as Labor secretary under former President Clinton.

OSHA Enforcement Memo Changes Certain Inspections

OSHA published an enforcement memo on Jan. 26 changing long-standing policy on its instance-by-instance issuance of citations and radically altering the landscape of certain inspections. OSHA agents now have the authority to cite certain types of violations of OSHA standards specific to certain conditions where the language of the rule supports a citation for each instance of non-compliance. These conditions include lockout/tagout, machine guarding, permit-required confined space, respiratory protection, falls, trenching and for cases with other-than-serious violations specific to recordkeeping.

Earlier in the month, OSHA announced its annual adjustments to civil penalties to increase to more than \$15,600 per violation, with a maximum penalty for willful or repeated violations to more than \$156,000. The enforcement memo is expected to go into effect on March 27.

OSHA Standards Updates

In the fall 2022 OSHA Regulatory Agenda, OSHA announced plans to initiate a panel on its upcoming heat illness standard for indoor and outdoor workplaces, but it's not likely we will be seeing heat illness move through this process until late spring/early summer. However, FCA will have the opportunity to work with OSHA on the development of FAQs to help address the concerns and confusion in the National Emphasis Program on heat-related hazards, similar to our work on the silica FAQs for construction in 2018.

Last week, the FCA and the Construction Industry Safety Coalition (CISC) met with representatives from OSHA and the Office of Information and Regulatory Affairs (OIRA) to express concerns over the potential expansion of the agency's emergency temporary standard to apply to construction activity and workers at covered healthcare facilities. During the meeting, we discussed OSHA's designation of the

construction industry as “low-risk” during the pandemic, the lack of engagement between construction workers and the patient population and more. The final rule is still under review at OIRA.

House Republicans Intend to Limit Earmarks

House Republicans plan to limit the types of projects that are eligible for earmarks. Projects would not be permitted for city parks and county museums, which could be named after members. Funds for building bridges or water systems would still be on the list of allowable projects.