

## House Hearing Criticizes OSHA's Impact on Jobs, Business

At a Feb. 15 House Subcommittee on Workforce Protections hearing on OSHA's regulatory agenda and its impact on job creation, witnesses slammed the agency for exploring new regulations that could damage businesses, imposing "substantial burdens" on employers without regard to cost concerns and overlooking the interests of small businesses.

Feb. 16, 2011 [Laura Walter](#)

"Worker safety is a goal we all share," said Subcommittee Chairman Tim Walberg, R-Mich. "However, we have real concerns with the policies and process the administration has recently proposed to reach that goal."

Walberg stressed that in recent years, OSHA has become "more focused on punishment than prevention ... however, punishment is just one piece of enforcing the law. Our goal should be to prevent workplace accidents before they happen, not simply shame an employer once a tragedy has occurred on the worksite."

Rep. Lynn Woolsey, D-Calif., countered Walberg's statements with a warning that targeting OSHA and safety regulations will be bad for American workers and for business. "If OSHA comes under assault from the new majority, the fact is the agency may not be able to carry out its core missions," she said.

Woolsey added that the FY 2011 continuing resolution and its suggested cuts "cripples the agency and needlessly jeopardize safety standards and endanger workers." She said it would eliminate 415 OSHA employees; result in 8,000 fewer workplace hazard inspections and 740 fewer whistleblower discrimination investigations; eliminate OSHA's statistics and information division; put state plans in jeopardy; block long-overdue rules; and more.

"Worker safety is a priority," Walberg said. "So too is allowing businesses to grow and hire new workers. Needless rules and onerous regulations are often roadblocks to economic growth and job creation."

### **Sullivan: Small Businesses Must Be Heard**

In his testimony, Thomas M. Sullivan, an attorney who runs the Small Business Coalition for Regulatory Relief, criticized OSHA for not fully considering how some regulations – such as the now-withdrawn proposal to add an MSD column to the OSHA 300 log – will affect small businesses.

"Small businesses felt that OSHA's cost estimate [of the MSD column proposal] reflected a misunderstanding of how small employers work and the pressure that employers feel when writing down a number on a form for the federal government," he said.

Sullivan also asserted that OSHA circumvented the Small Business Regulatory Enforcement Fairness Act (SBREFA) panel requirement for the proposed interpretation for occupational noise (which also has been withdrawn) by declaring that revising an interpretation was not subject to normal rulemaking procedures.

"OSHA's policy apparatus suffers when the agency treats the SBREFA process as a legal barrier," he said. "Constructive input by small firms provides OSHA with valuable insight that allows for the agency to draft proposals that will work on Main Street. OSHA benefits when it embraces the SBREFA process as a constructive dialogue."

### **Holmes: "A Troubling Pattern"**

Attorney Jacqueline M. Holmes testified on behalf of the U.S. Chamber of Commerce. She stressed that proposals like OSHA's occupational noise interpretation "reflect a troubling pattern of efforts by the agency to impose substantial burdens on American businesses without regard to the cost of those efforts."

She explained that OSHA did not clearly demonstrate there was a clear problem that needed to be solved with such an interpretation, and that occupational hearing loss cases have in fact consistently declined in recent years.

"OSHA hasn't demonstrated any obvious problem that requires solving [and] gave no examination whatsoever to the cost of its proposal. On top of that, the agency made the proposal at a time of substantial unemployment," she stated. "It is in effect telling American industry that it has to expend resources retrofitting its factories rather than hiring new employees and increasing production."

Stuart Sessions, president of Environomics Inc. and testifying on behalf of the Coalition for Workplace Safety, also found fault with OSHA's proposed noise interpretation. He discussed results of his case studies on the cost impact of the reinterpretation, a National Association of Manufacturers member survey and additional sources and drew the following conclusions:

1. The proposed OSHA noise interpretation would affect a large number and very broad range of American businesses and their employees. (Sessions estimated 2-7 million workers would be affected.)
2. The costs for American businesses to comply with OSHA's proposed new policy would be very high. (He estimated the interpretation would cost between \$2-10,000 per employee.)
3. OSHA's proposed new interpretation would have substantial negative impacts on U.S. jobs and competitiveness. (He estimated between 10,000 and 220,000 jobs would be lost.)
4. All this would be for relatively little benefit in terms of improved hearing protection for workers.

Holmes added that the Chamber of Commerce appreciates that this proposal ultimately was withdrawn.

"The problem is a lack of common sense and an over-abundance of arrogance," she said. "If the law allows OSHA to take such steps, and I'm skeptical that it does, then the law should be changed. And if this is how the agency intends to use the authority that it has, it should not be given any more."

#### **Miser: "This is Nonsense"**

Tammy Miser, executive director of United Support and Memorial for Workplace Fatalities, lost her brother, Shawn Boone, in 2003 in an explosion at the Hayes Lemmerz plant in Huntington, Ind. She stressed that regulations are necessary to save lives and keep workers safe and healthy.

"The buzz is that regulations kill jobs. This is nonsense," she said. "As I talk to families from around the country, I don't see this huge avalanche of new regulations. It's more like a drought."

Miser pointed out that without regulations to prevent workplace tragedies, more than families and communities suffer – businesses and jobs do, as well. She cited the ConAgra Slim Jim plant that closed after a fatal 2009 explosion, putting a total of 700 employees out of work.

"I respectfully ask the Subcommittee to not just look at one side of the ledger at the cost, but remember the benefits of OSHA rules for workers, responsible employers, families and communities," Miser said.