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NATIONAL PETROLEUM REFINERS ASSOCIATION

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OSHA Benzene Standard

The Occupational Safety and Health Administration's emergency temporary standard for occupational exposure to benzene has perhaps raised more substantial questions as to its applicability, enforcement and feasibility than it has answered. The standard, published in the May 3, 1977 Federal Register, limits employee exposure to airborne benzene to concentrations of 1 ppm, as an eight hour time-weighted average, and prohibits eye contact or repeated skin contact with benzene. Exposure of employees to airborne concentrations of benzene in excess of 5 ppm is prohibited, with a 15 minute limitation being placed on exposures up to 5 ppm. As we reported in our April 29th Bulletin, the emergency standards do not apply to retail automotive service stations or where the exposure is only from liquid mixtures containing 1 percent or less benzene by volume, or the vapors released from these liquids.

The paramount question raised by the emergency standard is whether the effective date of May 21, 1977 can be met. The merits of the limitation and required safety measures must be settled after the issue of this deadline is resolved, hopefully by an extension or stay. Numerous requirements providing for reporting use of benzene to OSHA—monitoring of workplaces where benzene to which employees may be exposed is present, employee exposure notification, engineering and work practice controls, extensive medical surveillance, employee training programs, and posting of warning signs where benzene may be present—are required within a 30 day period of the effective date of the standard, or by June 20, 1977. In the case of training, the employer has 15 days to implement a program for employees assigned to workplaces where benzene is present.

The basic problem facing virtually every refiner and petrochemical plant operator is identification of all the workplaces where benzene is present. Obviously this will vary with the facility, however, it seems clear that any

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not presently have a sufficient number of the portable battery-powered sampling pumps worn by the employees, contacts with some of our members have not been that optimistic. We have been told there are from five to eight companies which provide this monitoring equipment and that deliveries of monitors are either being delayed or shorted due to the demand precipitated by the OSHA action. While some refiners and petrochemical companies have accumulated expertise and equipment due to occupational standards for vinyl chloride and polyvinyl chloride, most affected companies, particularly smaller ones, will be hard pressed to comply with the standard's deadlines even if equipment can be obtained in a timely manner. One company spokesman commented that, while his firm expected to meet its responsibilities under the OSHA standard due to its prior experience with another substance, he envisioned that a company without that experience would require six months to assemble the hardware and expertise to comply. Presumably, non-compliance with the emergency standard could result in a citation being issued by OSHA, in conjunction with an inspection instituted on the complaint of any employee or his representative. A citation would set an abatement date for correction of the violation. Non-compliance would result in a fine up to \$1,000 for each violation, and failure to correct the violation within the prescribed period could result in a fine of \$1,000 for each day it continued. If considered an "imminent danger," OSHA can ask a U.S. district court for injunctive relief or a temporary restraining order against any condition or practice.

Consideration is being given to seeking relief from the temporary standard's May 21 effective date, either from OSHA or through the federal court system. The Occupational Safety and Health Act of 1970 provides two basic avenues for those affected by a standard issued by OSHA.

Employers may apply for a variance from the Secretary of Labor under Section 6(b) (6)(A) of the Act by filing an application which establishes that:

"(i) he is unable to comply with a standard by its effective date because of unavailability of professional or technical personnel or of materials and equipment needed to come into compliance with the standard or because necessary construction or alteration of facilities cannot be completed by the effective date, (ii) he is taking all available steps to safeguard his employees against the hazards covered by the standard, and (iii) he has an effective program for coming into compliance with the standard as quickly as practicable."

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